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Legitimation of EU Conflict Resolution through Local Actors:

Cases of Kosovo and North Cyprus

Submitted by Bilge Yabancı

for the degree of Doctor of Philosophy
of the University of Bath
January 2014

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Abstract

Conflict resolution constitutes a crucial aspect of the European Union's foreign policy objectives and external actions. Despite its centrality, there is a profound mismatch between the academic level discussions about the EU's role and impact on various conflicts of ethno-political nature and what actually takes place in practice, as the EU conflict resolution agenda unfolds within different local settings. Adopting an analytical perspective of legitimation based on local support, the thesis seeks to understand how and when local agency impacts EU conflict resolution. Subsequently, the framework is applied to analyse the complex interaction between fragmented local groups (political elites, non-state organisations and public) and the EU (as a framework and as a policy-actor) in two grand conflict resolution projects of the EU: Kosovo and North Cyprus.

The thesis finds that local groups have a distinctive ability to confer or withdraw support to certain EU policies, to push the EU to introduce or alter mechanisms for local participation into policy-setting process and to counter and disqualify the EU's normative arguments and policy choices with alternative normative arguments. Diverse local agents actively select norms and reinterpret them in order to match them with their extant ideas with an aim to push the Union to pursue a local vision of conflict resolution. This process of re-interpretation or localisation has behavioural implications on local groups as well. It approximates the conflict resolution process to local priorities and expectations; otherwise, the EU starts to lose its appeal to local groups to maintain its decisive role in the conflict resolution process.

These findings help us complement the EU literature which analyse conflict resolution through Europeanisation/socialisation and conditionality perspectives. Local groups are not merely passive recipients of EU benefits. Nor do they go through a linear process of socialisation and natural acceptance of the EU agenda in the long-term. By analysing the reasons and implications of increasing local resistance in Kosovo and North Cyprus, the thesis also bridges the theoretical gap between the EU literature and broad conflict resolution studies which promotes a genuine focus to the 'everyday concerns' of local groups.

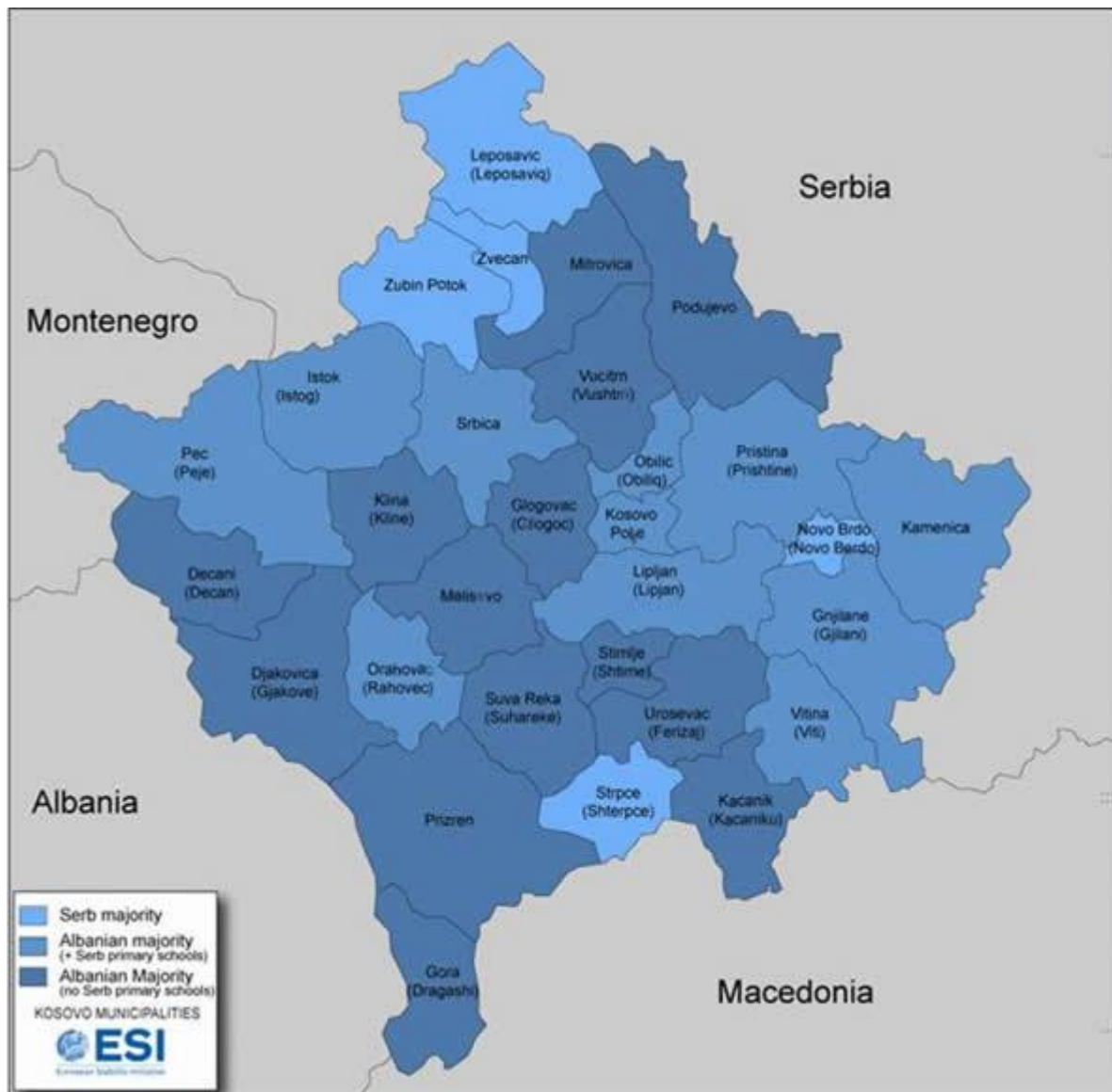
List of Acronyms

BIRN	Balkan Investigative reporting Network
C/ESDP	Common/European Security and Defence Policy
CPT	Centre for Peace and Tolerance
CTP	Republican Turkish Party/ <i>Cumhuriyetçi Türk Partisi</i>
DTR	Direct Trace Regulation
ECJ	European Court of Justice
ECLO	European Commission Liaison Office
EP	European Parliament
EU	European Union
EUCC	EU Coordination Centre
EULEX	European Union Rule of Law Mission in Kosovo
EUPSO	Turkish Cypriot Task Force Programme Support Office
EUPT	EU Planning Team for Kosovo
FAR	Financial Aid Regulation
GLR	Green Line Regulation
ICO	International Civilian Office
ICR/EUSR Representative	International Civilian Representative/EU Special Representative
IKS	Kosovar Stability Initiative/Iniciativa Kosovore për Stabilitet
IPOL	Balkan Policy Institute / <i>Instituti Ballkanik i Politikave</i>
KDI	Kosovo Democratic Institute/ <i>Instituti Demokratik i Kosovës</i>
KFOR	NATO Kosovo Force
KIPRED	Kosovar Institute for Policy Research and Development
KLA	Kosovo Liberation Army
KTA	Kosovo Trust Agency
KTTO	Turkish Chamber of Commerce
MEP	Member of the European Parliament
MMA	Monitoring, Mentoring and Advising
NATO	North Atlantic Treaty Organisation
OSCE	Organisation for Security and Co-operation in Europe
PFAA	National Programme for the implementation of <i>acquis</i>

PISG	Provisional Institutions of Self-Government
PSDK	Social Democratic Party of Kosovo/ <i>Partia Socialdemokrate e Kosovës</i>
RoC	Republic of Cyprus
SAA	Stabilisation and Association Agreement
SAP	Stabilisation and Association Process
SLS	Independent Liberal Party/ <i>Samostalna liberalna stranka</i>
SRSg	Special Representative of the Secretary General
TRNC	Turkish Republic of Northern Cyprus
UBP	National Unity Party/ <i>Ulusal Birlik Partisi</i>
UN	United Nations
UNMIK	United Nations Interim Administration Mission in Kosovo
UNSC	United Nations Security Council
WTO	World Trade Organisation

Map of Kosovo

(Map of the inhabitants according to ethnicity)



Source: European Stability Initiative,
http://www.esiweb.org/index.php?lang=fr&id=311&film_ID=2&slide_ID=24

(Map of municipalities)



Source: http://mapsof.net/uploads/static-maps/kosovo_political_divisions.jpg

Map of Cyprus

(the current territorial and political division)



Source: CIA Library, <https://www.cia.gov/library/publications/the-world-factbook/geos/cy.html>

Respect for the concrete detail of human experience, understanding that arises from the viewing the Other compassionately, knowledge gained and diffused through moral and intellectual honesty: surely these are better, if not easier, goals at present than confrontation and reductive hostility.

Edward Said (1997: lxx)

Part I

Chapter One – Introduction

1.1 Introduction

The European Union (EU) defines itself as a peace project that has eventually brought long-awaited reconciliation and prosperity to the continent. The Treaty of Lisbon, Article 1(a), states that universal principles such as “respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities” are foundational for the Union and its member states as they constitute the supporting pillars of the European peace.

When building up and maintaining *raison d'être* for external action, important policy actors within the EU refer to the same values and principles to underline the Union's role as a peace initiator and guarantor not only among its member states, but also in international politics. Expanding European values through external action is considered as a sign of international power, a necessity for maintaining the internal security of the EU-zone and also as a moral and historic responsibility (Lucarelli and Manners 2006). For instance, the European Security Strategy of 2003 asserts that the EU's intention is to “make a particular contribution to stability and good governance” in its immediate neighbourhood. Similarly, Treaty of Lisbon (Art. 2.5) notes that the EU “shall contribute to peace, security and the sustainable development of the world” through “upload[ing] and promot[ing] its values and interests” in its relations with the wider world. Statements by high-ranking EU officials also endorse this ‘historic’ and ‘moral mission’ that the EU assumes in its external actions. As the President of the Commission, Prodi claimed that “Europe needs to project its model of society into the wider world. We are not simply here to defend our own interests: we have a unique historic experience to offer. The experience of liberating people from poverty, war, oppression and intolerance. We have forged a model of development and continental integration based on the principles of democracy, freedom and solidarity—and it is a model that works” (Prodi 2000, cited in Manners 2006b: 19).

Given the strong commitment of the EU to promote certain values and principles through external action, a substantial part of academic studies on the EU also argues that

the Union is a special international actor in terms of its aims, decision-making procedures, available instruments and even outcomes in preventing or resolving conflicts beyond its borders. More specifically, the EU is defined as a 'normative power' which is driven by ideational and value-based concerns (i.e. establishment of worldwide peace and basic human rights) in external relations (Manners 2002). According to the academic commentators on 'normative power Europe', these normative concerns also determine the EU's objectives (promotion of democracy, human rights, rule of law, economic development and regional cooperation) and policy instruments (contractual agreements offering a range of privileged relations with the EU, civilian missions) (Manners and Whitman 2003). The reflection of the persistent emphasis on peace, norms, values and principles within the EU is most visible when it comes to the EU's external objectives and actions which are defined along promotion of conflict prevention, settlement and resolution, regional and global cooperation, and development (Tocci 2007). The concept 'normative power Europe' has become a label for the (presumed) distinctive identity and role of the Union in addressing various ethno-political conflicts with one main objective: to construct peace, tolerance and reconciliation in the neighbourhood and the wider world by relying on the unique experience of Europe itself.

A significant part of the academic discussions extended the normative power argument to define a legitimate, ethical or moral actorness for the EU. These discussions implicitly or explicitly acknowledge that legitimacy of EU external actions and specifically of conflict resolution naturally derives from the overarching principles that the Union promotes as a normative power. Legitimacy of the EU is assumed to be generated through its power and influence that "are not so much based on military might and other coercive means (which does not exclude other material, mostly economic, sources of power) as on the attractiveness of its example, reflecting such diverse practices, norms and values as shared sovereignty, welfare-state arrangements, multilateralism, democracy, human rights and environmental policies" (Gerrits 2009: 2). Put simply, legitimacy of the EU is considered to spawn through civilian instruments and normative motivations in the Union's external actions, especially when the EU shoulders conflict prevention/resolution engagements in various parts of the world.

Does this self-declared normativeness in external engagements, i.e. doing 'good' through rightful conduct; necessarily grant the EU 'the legitimacy' it claims in order to facilitate desired reconciliation and peace beyond its borders? Is the EU's role model as a successful peace project simply sufficient to transform inter-ethnic hostilities into

cooperation, especially when conflict has created self-determination claims where people might prioritise physical security and maintenance of their distinct identity over reconciliation and economic development? Will the EU's agenda through democracy-building, Europeanisation and contractual relations be uniformly supported by conflict-torn societies? The prompt answer to these questions is 'not necessarily'. In fact, recently, the scholarly attention paid to resolution of ethno-political conflicts through third-party involvement has taken a new turn.

Some students of conflict resolution problematise the statist outlook in contemporary conflict resolution which merely perceives inter-ethnic conflicts as a source of international instability that require quick solutions through restoring sovereignty and efficiency in the conflict zones. Those authors disagree with the interventionism embedded in the statist approach that ignores the human dimension of conflict resolution (Roland 1997; Rasmussen 2010) and criticise the "formulaic synthesis of Western-style" conflict resolution that dominates the current conflict resolution practice. According to these critiques, conflict resolution should adopt post-colonial (Bleiker 2011) and post-liberal (Richmond 2009) perspectives; and should denounce the external conflict resolvers' assumption that sustainable and decisive peace and ethnic reconciliation can be secured through a mixture of technocratic (read apolitical) recipes of development and democratisation deriving from putatively universal principles. Critical commentators argue that Western norms and values such as good governance, promotion of human rights, rule of law and market economy are tools which put local authorities under pedagogical exercises and ignore contextual factors (Mac Ginty and Richmond 2007: 491). As a result, conflict resolution has been exercised through a "mixture of consensual and punitive strategies" (Richmond 2010). The current practices "offer a peace that is a product of multiple intervener objectives, with perhaps only a marginal renegotiation by its local recipients" (Richmond 2008: 109). Some critiques even assert that "rose-tinted view of benign liberal internationalism dispensing democracy and human rights is deeply naïve, extraordinarily uncritical, and in some versions at least, blindly arrogant" (Bose 2005: 323).

As an alternative to top-down practice that gives third parties excessive power over conflict zones, post-colonial/liberal approach invites conflict resolvers to seek *consensual and legitimate* practice through focusing on genuine local participation and generating 'everyday peace' or 'self-sustaining peace' (Mitchell 2010; Richmond and Mitchell 2011). It rejects 'externally imposed' agenda on local communities and favours 'hybrid' conflict

resolution. Rather than relying on a formulaic list of remedies and missionary logic to disperse some values and principles, hybrid conflict resolution requires reflection on how contextual interaction between different conflict resolvers and local groups can be used to generate everyday peace and reconciliation through participation of local actors (Richmond, 2010).

The common ground among the supporters of critical outlook in conflict resolution studies is their explicit focus on local perceptions and diverse indigenous group motivations to support externally-driven reconciliation and settlement efforts. There are two major assumptions of this surge of focus on local elements: first, “even the most well-constructed international reform effort will be a failure, if citizens [i.e. local groups] do not perceive it as legitimate” (Talentino 2007: 153). Second, everyday concerns of local populations do not necessarily conform to the concerns of external conflict resolvers. Local groups can rather pressurise the ‘liberal interventionist agenda’ through adaptations (Pouligny 2006). These assertions have led many scholars to conclude that local agency is an important variable to take into consideration when understanding the process of conflict resolution, the authority of conflict resolvers, and thereby the impact, success or failure of conflict resolution efforts. Hence, ‘the local’ is accepted as an “essential building block of peace” (Talentino 2007: 152).

Nevertheless, the literature on EU external action and conflict resolution has mostly remained detached from these discussions. The impact of local ideas, perceptions and socio-psychological attitudes on the social and political order that the EU aims at establishing for resolving conflicts remains under-researched, despite the fact that conflict resolution constitutes an essential part of the EU external actions. Given the expanding gap between EU conflict resolution research and the recent focus on local agency in conflict resolution studies, this thesis argues that EU conflict resolution research can benefit from a closer focus on local actors in conflict zones. Therefore, this thesis attempts to analyse ‘the local’ and ‘the contextual’ -rather than solely focusing on ‘the EU’ and ‘the universal’- because the local and the contextual could advance our understanding of the persistent shortcomings of the EU’s efforts in establishing peace and reconciliation in the aftermath of violent ethnic conflicts. The EU’s strengthened commitment to conflict settlement and resolution after Lisbon Treaty signals that the Union’s unwavering impact on the daily lives of local groups in conflict zones would continue and expand in the post-Lisbon period. Only by bringing local groups’ perceptions, adaptation processes and reasons for

challenge into the picture, a context-definitive ground for understanding EU conflict resolution can be created.

To further this alternative way of understanding and explaining EU conflict resolution, the thesis studies the EU as a conflict resolution actor by employing an analytical perspective of *legitimation* in order to enhance our understanding of how and when the local agency impacts the intended transformative role of the EU in relation to its two grand conflict resolution engagements: Kosovo and North Cyprus. The thesis considers that the conceptual and analytical toolbox offered by the concept of 'legitimation' can provide the context-definitive ground that is promoted by the broader conflict resolution/peace-building studies.

1.2 Purpose of the Thesis

The main objective of the thesis departs from the assumption that local agency closely impacts the EU's role in conflict resolution as demonstrated by a number of existing studies (Coppeters, Emerson et al. 2004; Diez, Albert et al. 2008; Noutcheva 2009). The thesis aims to bring the local agents to the fore by adopting an analytical perspective based on the concept of *legitimation*, in order to explain how local actors in conflict zones affect EU conflict resolution and when/under what conditions the EU is conferred support by the recipients of its policies. The thesis approaches the concept of legitimation as a process of generating 'social power' grounded in the consent and support of local actors instead of self-declared normative intentions and actions of the EU¹.

In line with the main objective, the thesis first strives to set out the ground to bridge the gap between the literature focusing on the EU's role/impact/effectiveness in conflict resolution and the recent critical approach in the conflict resolution field which call for 'peace from below' through genuine local contribution. In order to fulfil the widening gap between conflict resolution studies and the EU literature, the objective is to

¹ There is an important theoretical difference between legitimacy and legitimation that is followed in this thesis. Whilst legitimacy is more ordinarily used in the language of politics and in academic discussions, it is difficult to adopt it for social science research through observation of human and social activity. Legitimacy as a concept refers to normative discussions and a set of given criteria about 'how an authority 'ought to behave'. On the other hand, legitimation refers to the observable activities and actions undertaken by the authorities and their addressees. 'Legitimation is an activity which can be observed ... To talk of legitimation is to talk of something that people do, a contest between rulers and their opponents' (Barker 2001: 24). Therefore, the use of legitimation instead of legitimacy in this thesis is more than a verbal exercise. Legitimacy refers to how an authority ought to behave, whereas legitimation refers to a central and characteristic activity of authorities and their addressees. The analyst of legitimation asks 'in what ways does legitimation take place?' and looks into the expressions or judgements about 'oughtness' attempted by the authorities, their opponents and addressees (Barker 2001). The difference between legitimacy and legitimation will be further discussed in Section 1.4.2 and in Chapter Two.

identify the dynamic relationship between the local agency in conflict zones and the EU (both as a framework of ideas, norms and morals and as a policy actor making and implementing policies on the ground)². In this sense, the thesis inquires the ability of local stakeholders with different agendas, perceptions and power to adopt, contest, resist or openly challenge the EU agenda and to push the Union to pursue a local vision of conflict resolution. Therefore, the thesis seeks to understand and explain the local agency as a dynamic and influential factor with an ability to postulate counter-norms and values against the EU framework and confer or withdraw support for the EU policies. Contrary to the common depiction of local stakeholders as mere recipients of EU norms and policies, a conceptualisation of locals as active agents throughout the conflict resolution process attempts to understand their autonomous impact on EU conflict resolution process.

Second, the thesis aims to frame the relationship between the active local agency and the EU through the concept of legitimization which gives important insights into the local agency and its relationship with various representations of the EU. Legitimation has an intersubjective nature (contrary to the more abstract and normative concept of 'legitimacy' as a property of a government or any other type of decision-maker) reflecting on not only what the EU claims as its objectives and policies but also on the local attitudes, perceptions and actions. As aptly claimed by Reus-Smit (2007: 159), '[a]uto-legitimation [through self-declared norms and principles] is an oxymoron -an actor can jump up and down, declaring loudly that his or her actions are legitimate, but if nobody accepts this, then they are not correctly described as such, even if he or she is making a legitimacy claim'. Therefore, legitimization is 'symbiotic rather than one-directional, casual or mechanical' (Barker 2001: 28), and thereby, it offers an opportunity to look into the actual stakeholders or local groups' attitudes towards the EU and the conflict resolution process. Analysing legitimization means going beyond reporting what the local perceptions are about the EU. Legitimation explains the mutual relationship between different and sometimes competing ideas, the reasons for local resistance and behavioural implications of local support and disapproval for the EU. In short, an analytical perspective based on legitimization would reveal 'the active and contested political process' (Barker 2001: 28). In

² Differentiating the EU as a framework and as an actor is accepted as a useful distinction in the literature. For instance Hill refers the EU as a framework organisation and action organisation Hill, C. (2001). "The EU's Capacity for Conflict Prevention." *European Foreign Affairs Review* 6(3): 315–333. Similarly, Coppieters et al. differentiate between the EU as a framework for the conflict setting and EU as an actor in conflict resolution. Coppieters, B., M. Emerson, et al., Eds. (2004). *Europeanization and Conflict Resolution: Case Studies from the European Periphery*, Academia Press.

other words, legitimation enables us to understand the contextual factors affecting the EU's authority in a specific case of conflict resolution.

Finally, the thesis intends to contextualise the impact of local agency and support on the EU's authority as a conflict resolver by applying an analytical framework of legitimation through a structured and focused comparison of two ethno-national protracted conflicts: Kosovo and Cyprus. The endeavour is to empirically analyse legitimation of the EU through detailed case studies on the local agency in the EU's two grand conflict resolution projects.

The thesis considers framing EU conflict resolution and local agency through the analytical perspective of legitimation as a worthwhile attempt for many reasons. First, conflict resolution constitutes a prominent part of the EU's external governance and global power projection. Violent ethno-political conflicts in Europe's neighbourhood and the initial impasse surrounding the EU (due to lack of a common political stance and military capabilities separate from NATO) in early 1990s have delivered the renowned 'wake-up call' for the Europeans to develop cooperation in foreign policy. EU's developing foreign policy, although partially pushed by the external pressures³, has made conflict resolution the symbol of the EU's growing international presence and foreign policy identity as the Treaty of European Union Art 21(2) and Treaty of Lisbon Art 10(2) confirm the Union's commitment to conflict resolution to preserve international peace, prevent conflicts, strengthen international security and contribute to good global governance⁴.

With this aim in mind, the EU seeks to contribute to the transformation of international organisations, international law and principles in relation to conflict prevention and resolution. Furthermore, the Union builds regional interests, creates geographical focus areas, tailors specific policies that directly intervene into the daily policy-making of local leaders with an aim to extend 'Europeanness' beyond the EU's

³ From the beginning, the development of EU foreign policy has never been on a linear track. It is rather marked with leaps back and forward since the years of failure of the European Defence Community during 1950s to the "paradigm shift" marked with the debates regarding supranational integration of European security. In general, the acceleration of cooperation during 1990s was due to two main reasons: increasing socialisation of member states within the EU structures; and the altering international and strategic landscape especially after the Cold War. Increasing cooperation in the field of foreign policy and common defence was mainly determined by external factors such as redefinition of the US security concerns away from Europe; and the restructuring NATO's role as a security provider in Europe and the changing nature of conflicts and perceptions of threat from regional instabilities and conflict. See Howorth, J. (2004). "The European Draft Constitutional Treaty and the Future of the European Defence Initiative: a question of flexibility." European Foreign Affairs Review 9(4): 493-508.

⁴ EU (1992). Consolidated Version of the Treaty of the European Union, Official Journal of the European Union C 191, 29 July 1992, EU (2007). Treaty of Lisbon, Official Journal of the European Union C 306, 17 December 2007.

official borders (seen as a moral and political responsibility) and to secure the 'European' zone of peace and security. Therefore, understanding the problems and limitations of the EU conflict resolution through an alternative research focus is important to evaluate the Union's renowned commitment to international peace through conflict resolution.

The second reason for studying the legitimization of EU conflict resolution is that the EU engages in a form of external governance, especially in its neighbourhood. The EU's favoured approach to ensure a decisive solution for the protracted conflicts is a long-term structural engagement in order to facilitate democratisation, human and minority rights, the rule of law, functioning market economy, and economic development. Particularly, EU integration or association prospect offers strong incentives to local groups to cooperate with the EU agenda of conflict resolution, especially in the Union's immediate neighbourhood. Through transferring the internal structures and norms of conflict countries, the EU aims at locking them into reform on democracy, human rights, rule of law and market economy.

In this approach, local groups require further attention since they are the direct bearers of EU conflict resolution engagements. Namely, the contractual relations are tied to strict conditionality. The EU is not only involved in re-definition of physical borderlines but also ideology, discourses, institutions, attitudes and agency of the parties to the conflict (Diez, Stteter et al. 2004). The EU seeks to alter the perceptions of national identity and even creates new layers of identity (through Europeanisation) and institutional rights (through offering integration) by dispersing its own norms, values and institutions (Diez, Stteter et al. 2004). In practice, conditionality means that the EU chooses to establish direct influence on local authorities' decision-making power, and daily lives of local communities and to balance between different local groups as a form of political engineering. More specifically, through offering market access and membership which are conditional upon implementation of certain norms and institutional structures, it establishes a top-down control on local authorities' decision-making which is beyond the traditional democratic principles of representation and accountability. Since post-conflict territories lack full-fledged democratic institutions, the EU often finds itself increasingly in direct intervention into the daily social and political life by either directly involving in setting those institutions or by applying carrots and sticks policy in order to co-opt the local leaders to introduce them.

Although the EU seemingly favours co-existence of indigenous political structures, usually, they are required to adapt to European-style liberal democracies. By doing this,

EU practice directly shapes executive, judiciary and legislative aspects of local governance in conflict zones. Thus, EU practice goes beyond traditional peacekeeping and mediation. Given these interventionist features of EU conflict resolution, different local groups become important sources of support for maintenance of the EU's authority. Local support for EU conflict resolution 'should be revisited in a considerably broader sense' by looking at 'direct participation of local communities' in the EU policy making and the EU's 'degree of downward accountability and legitimacy that has so far been absent' (Chopra and Hohe 2004: 291). In this sense, the concept of legitimation offers the analytical perspective to look at the 'local' who actively engage with the declarations and self-justifications of the EU and who produce their own arguments for 'support' or 'resistance'. Legitimation analyses the local group socio-psychological attitudes and political conduct vis-à-vis the EU conflict resolution framework and policies. Legitimation analyses the local as the 'subjects' of the process of ascribing support, meaning and power to the EU when engaging in conflict resolution.

A third reason for studying the local agency through the legitimation concept is that the EU external relations literature as well as policy circles in the field of conflict resolution make a claim to 'unspecified general legitimacy' based on self-defined rationale attached to the norms (Bicchi 2006: 293). As briefly discussed above, it is widely acknowledged that the normative identity of EU foreign policy is distinctively built upon a "system of principles, values, meanings, and instruments ... which become referential points and orientation sources for external action" (Tsagourias 2007: 106). The existing studies mostly debate how normative pre-disposition ("what the EU is" rather than "what the EU does") makes the EU act as a 'qualitatively' different global actor (Manners 2002; Manners and Whitman 2003; Manners 2006a).

In this common understanding, legitimacy has a prescriptive and self-declared content embedded in a 'distinctive EU' argument. For instance, Eriksen (2006) equates the EU's legitimate foreign policy with self-deployed value and justice in universal higher ranking law. In his words,

I suggest as a criterion of a legitimate foreign policy that the EU does not aspire to become a world organisation- a world state- but subscribes to the principles of human rights, democracy, rule of law also for dealing with international affairs, hence underscoring the cosmopolitan law of the people (2006: 10).

Similarly, Manners depicts the legitimacy of the EU only through prescriptive attributions to the Union:

[T]he rapid and unreflexive insertion of military security policy is having a dramatic effect on the generally benign normative international identity of the E(s)U. This effect will undoubtedly be felt in at least three ways on the role, legitimacy, and perception of the E(s)U, both internally and externally. The legitimacy of the E(s)U when it engages in military intervention and peacekeeping is likely to be increasingly questioned by both Union citizens and those who are the subject of intervention, if they are not accomplished in a normative way” (Manners 2006c: 409) .

In this argument, Manners evidently portrays norms as “a close conceptual affiliate of the term ‘legitimacy’” (Merlingen 2007: 439). This approach only describes what the EU is or is not based on some given credentials of legitimacy and self-perception, but do not tell us more than the presence of a static and assumed property of the EU. However, the EU’s logic of integration that has brought peace and cooperation to the continent and the projection of this normative logic do not necessarily resonate well with the addressed actors in conflict zones. In fact, detailed studies on the external perceptions of the EU have found that external perceptions are highly important because outside observers of the EU’s putative normative identity reproduce another image of the EU “with which we [i.e. the EU] can compare our [the EU’s] self-representation, particularly if those Others are relevant sources of our self-esteem from whom we demand *recognition*” (Fioramonti and Lucarelli ; Lucarelli 2007a; Lucarelli 2007b; Cerutti and Lucarelli 2008: 35). Moreover, the validity and credibility of the principles and norms as a sufficient basis for legitimate external action cannot be taken for granted, especially since the outsiders’ perceptions are divergent from the EU’s self-perceptions.

As some academic commentators argue, before the self-attributed credentials of normative power becomes a “self-fulfilling prophecy” (Pace 2008: Loc 2783), we need a greater reflection on the putative normative power (Nicolaidis and Howse 2002; Sijursen 2006; Diez and Manners 2007; Aggestam 2008; Tocci and Hamilton 2008). Critiques of the normative ergo legitimate power EU argument contend that the self-attributed superiority of Western values, the EU’s arbitrary approach towards international law and justification of neo-liberalism in its external relations reinforce the worries of the non-

Western world that the EU might be institutionalising hegemony in another way. For instance, Nicolaidis and Howse (2002: 769) problematise the approach presenting the EU as a 'micro-cosmos', or the projection of the EU as a model to the external world. This approach often obstructs "self-awareness since 'what' is being projected is not the EU *as is* but an 'EU-topia'". In this sense, there is a small margin for the normative power Europe to fall into the trap of 'utopian normativity' and 'fetthizising' some instruments over the others (Nicolaidis and Howse, 2002: 788-9). Similarly, Tocci (2008a: 4) states that 'if we associate a normative foreign policy with a 'good' or an 'ethical' foreign policy, then we have to take great care not to slide into an imperialistic imposition of what is subjectively considered 'good' on the grounds of its presumed universality'. Aggestam (2008: 7) also joins the criticisms by arguing that "[t]he problem with this ambition to shape the world in Europe's image is that it is based on an assumption that European values and ways of doing things are intrinsically superior. This raises the troubling prospect that ... this conception ... could be perceived as an incipient cultural imperialism".

Discursive constructions of the role and identity as value-driven, normative and ethical as the predetermining framework for practice cannot be evaluated without the perceptions and consent of the relevant audience. As Browning and Christou (2010: 110) state that "the Other becomes an agent whose recognition of the Self's claims to identity is important, not least in terms of legitimating policy and action ... it is not enough to simply proclaim an identity oneself. While that description may be accepted by outside actors, often such external recognition must be fought for and earned. Otherwise the Self may need to narrate an alternative story that does gain the recognition and acceptance of the outside".

The prominence of conflict resolution for the EU, the Union's direct impact on the social, political and economic conditions in its conflict resolution engagements and the critical EU literature calling for an alternative theorisation of the EU's role and impact point to the centrality of the local agency and the contextual factors as a starting point to understand and explain EU conflict resolution and some of its persistent problems. In the EU literature, legitimation as an intersubjective activity of gaining social recognition and power from the EU's addressees has not been systematically discussed. Therefore, this thesis argues that studying legitimation and 'the local' would help us to overcome the over-reliance on self-perceptions and the desired image of the EU as legitimate. In Rodney Barker's words (2001: 23), when we talk about a legitimate government or authority, everything else we know about it remains unchanged'. However, legitimation as an

intersubjective process would allow us to move beyond the ethical, moral and normative judgements about the EU's external relations (and particularly about EU conflict resolution here) in order to look into the expressions and claims of the EU to justify itself and of local groups in conflict societies, both of which constitute or change the conduct of EU conflict resolution. We should acknowledge that the EU's identity is not immune from external impact because the non-EU parties are relevant 'as active players' for any foreign policy actor (Lucarelli 2007a; Cerutti and Lucarelli 2008). As Cerutti and Lucarelli note that "the self-identification and legitimization processes can be affected not only by the EU's overall performance (policy) but also by the reception of the *others*' views of the EU (which is inevitably influenced by the policy performance, but also decoded through the observers' cognitive frames)" (Cerutti and Lucarelli 2008: 193).

To summarise, claims to a normative and distinctive EU rather feed the desired international role and identity that the EU intends to build (Diez 2005; Tocci 2008a). These claims can be considered as only one side of the process of legitimation. The other side is constituted by the addressees of EU policies, their confirmation or rejection of the discursive actions, role-making and policy choices of the EU. The proposed analytical perspective of legitimation in this thesis does not aim to report subjective perceptions of local groups alone. As stated by Talentino (2007: 156), "when we talk about perceptions ... we are talking about how local actors build their understandings of the reform program based on how it affects their interest or concerns". Legitimation as a practice or process consults the local perceptions to explain the attitudes and support by local groups for the EU with reasons and implications of local support on conflict resolution. To date, the existing studies on EU conflict resolution have not systematically assessed the local perceptions as a cause of an active agency with a power to "ascribe purpose and meaning" to the EU (Jachtenfuchs, Diez et al. 1998: 412) as well as to authorise or resist and challenge the EU on the ground. Hence, this thesis intends to tap into this under-researched area by enquiring 'how local actors' perceptions, priorities and attitudes have a direct impact on the EU's conflict resolution authority'.

1.3 Research Questions & Propositions

The thesis departs from the argument that the EU's self-declared normativeness regarding the prevalence of principles in foreign policy and specifically in the conflict resolution field do not necessarily lead to a guaranteed legitimacy, since it excludes the actual social and political context that the EU acts within when engaging with conflict resolution. In

principle, all international actors adopt a normative discourse in relation to their foreign policy interests and objectives (Tocci and Hamilton 2008; Forsberg 2009). The problem is not that the EU has its own image of world and a desired role for itself but also tends to see it as unique and distinctive, and therefore, ‘legitimate, positive and worth pursuing’ (Cerutti and Lucarelli 2008: 23). Therefore, the existing implicit claim to legitimacy has to be extensively assessed.

Instead of assuming that legitimacy of the EU’s external actions is a natural outcome of the principle-driven behaviour in foreign policy and specifically in conflict resolution, this thesis approaches legitimacy as ‘a practice of legitimation’ which derives from the dialogue of EU’s self-justifications and actions, and local ideas, perceptions and the experience of local groups with the EU policies and institutions. Hence, legitimation is not a fixed quality or ‘uncontentious objective reality’ (Barker 2001: 27) of the EU which is sourced from pre-defined norms and institutional set-up, but a living practice for gaining and maintaining local support and consent or societal power.

In light of this approach, the thesis utilises the concept of legitimation to understand and explain local addressees or stakeholders’ agency when ‘ascribing or withdrawing purpose and meaning’ (Jachtenfuchs, Diez et al. 1998) to the EU and the implications of the ‘practice of legitimation’ on EU conflict resolution. Given these premises, the main question in this thesis is *how and under what conditions does legitimation process through local groups in Kosovo and North Cyprus affect the EU conflict resolution engagements in these two cases?*

A number of propositions motivate the main research question and raises several sub-questions. Each proposition is derived from the existing literature on legitimacy/legitimation and “directs attention to something that should be examined within the scope of study” (Yin 1994: 28). First, the legitimation of authority is substantial also for non-state actors acting beyond domestic politics where the basic credentials of democracy, such as elected representatives and a constitution, are absent. This assumption adopted in this thesis capitalises on the fledgling debates that the blurring lines between the national and the emerging global governance exigently requires an extension of the concept of legitimacy beyond the domestic sphere of the nation-state. Today, global governance displays state-like policy making with its layered and overlapping areas of governance and impact on people regardless of citizenship. Hence, non-state actors of various types and their stakeholders enter into a direct power relationship with their addressees. According to Bretmeier (2008: 1), “[t]he more the character of politics in

multi-level governance systems approximates, even though not fully equals, to the pluralist character of domestic politics, the less it remains plausible that studies of domestic or international order rely on partly different understandings with knowledge considered to become relevant on the international level and legitimacy to unfold mainly in domestic politics”. The nature of decision-making that non-state actors engage in today, gives legitimacy a societal and subjective character. Although the system of global governance is new and fragmentary, its decision makers are obliged to seek legitimacy from the audience they address (Falk 1995; Holden 2000; Held and McGrew 2002). In this sense, the thesis deals with the following sub-questions:

- *What is legitimacy and legitimation?*
- *What are the sources of legitimation for non-state actors of international/global politics?*

These questions seek clarification for the concept of legitimation and discuss how it can be extended and applied to non-state governance.

The second proposition is that legitimacy of the EU is not guaranteed due to the EU’s self-declared normative attitude in conflict resolution, as discussed in the previous section. Moreover, our understanding of the EU would be only enriched when we ask in what ways or how the legitimation for EU conflict resolution takes place. While legitimation does not exclude the impact of EU declarations or self-justifications about its own normativeness and principle-driven actions, it actually considers factors affecting beliefs, attitudes, convictions and support of the local addressees. Therefore, the thesis also deals with the following sub-question:

- *What are the sources and objects of legitimation of the EU in conflict resolution?*

In relation to the legitimation process, this thesis develops a four-part analytical model of legitimation based on the existing literature on legitimation in global/international sphere. According to Yin (1994), developing an initial theory is an essential phase of research design before delving into empirical areas. In this sense, the initial analytical framework is developed in order to have a blueprint or template for data collection and analysis.

However, it also informs the analytic generalisation where the previously developed analytical framework is used to compare the empirical results.

The framework, as presented in Chapter Three, discusses various patterns and sources of legitimation for the EU, in detail. Briefly, the framework incorporates two main dimensions for legitimation: sources of legitimation (normative and empirical); and objects of local support for the EU (diffuse and specific support). These two main dimensions are further divided into four analytical categories or pathways of legitimation: legitimation through norms and principles (normative legitimation of EU ‘framework’ based on pre-defined general norms and practices such as human rights, international principles or dominant practice of the international community in relation to the specific conflict case), legitimation through local ideas and ideologies (legitimation through beliefs and convictions about EU ‘framework’ in light of local norms, ideologies and attitudes), legitimation through procedural and participatory qualities (legitimation of the EU as a ‘policy actor’ through accountability, openness and formal and informal participatory opportunities for local groups during policy-making and implementation), legitimation through performance (legitimation of the EU as a ‘policy actor’ based on outcomes and local expectations). Each type constitutes an ideal category for the EU to generate acceptance, cooperation and support for its conflict resolution agenda from various local stakeholders.

The third proposition, which motivates the main enquiry in this thesis, is that the process of legitimation underlines the very societal power or authority of the EU in conflict resolution. Legitimation derived from local actors’ support (who are the direct bearers of the impacts of EU conflict resolution engagement) is a crucial factor shaping the EU’s eventual power to bring sustainable solution to conflicts since legitimate authority would generate voluntary compliance of addressed groups and ‘appraisals of illegitimacy may stimulate collective responses’ (Hegtvedt 2004: 104). As a result, by accepting and adopting or resisting, challenging and generating alternatives to the EU, the locals affect the direction and shape of the conflict and conflict resolution intended by the EU. In this sense, the thesis also seeks to answer

- *What impact does the EU’s legitimation (as a framework and as a policy-maker) have in the overall process of conflict resolution?*
- *How local challenge and resistance should be evaluated?*

In answering these questions, the analytical framework is used as a template to conduct case studies in a focused and structured manner to discuss in detail how dynamic agency of local stakeholders plays out in each of these pathways of legitimation (George and Bennett 2005). The framework also guides an integrated data collection process and analysis for the empirical parts of the research. The comparison between Kosovo and North Cyprus intends to show what role specific local actors play in different conflict contexts and to look for commonalities as well as differences in two cases in terms of local agency and support where the EU engages through different degrees of actorness and methods of conflict resolution.

1.4 Conceptual Clarifications

This thesis deals with a number of concepts that are much debated in political theory and in IR literature. Conflict resolution, legitimation and the local are the main concepts underlined throughout the thesis. Although the next two chapters delve into a theoretical discussion in detail to articulate the conceptual borders of these phenomena, this section provides handy descriptions at the beginning of the thesis in order to avoid misconceptions about the purpose of the thesis and to justify the choice of the certain approaches over the others.

1.4.1 Conflict and Conflict Resolution

Conflict is probably one of the most referred concepts in recent IR literature. It is even more likely that its meaning has been continually transformed, especially since the end of the Cold War. Today, when IR literature talks about conflicts, the debate is not necessarily about inter-state conflict, foreign policy, security or interests of a country; but also “about statehood, governance, and the role and status of nations and communities within states” (Holsti 1996: 20-1). Such conflicts are usually driven by ethno-political mobilisation and escalate through armed mobilisation by one or more ethnic groups within a state against the government, regime or other dominant ethnic groups. In many cases, inter-ethnic conflicts are a result of systematic deprivation of certain groups from basic economic, social and democratic rights. As Stefan Wolff (2006) notes there are also elite level factors or conscious constructions of conflicts besides mass level factors. What usually escalates a public sense of deprivation into open conflict is conscious inflaming of exclusivist

nationalism by local elites that maintains the incompatibility of demands between hostile groups.

This type of conflict involves “struggles for access, for autonomy, for secession or for control” (Miall, Ramsbotham et al. 2005: 31). However, as argued by Diez et.al. (2008), conflict does not always involve physical violence. Conflict is defined as “the incompatibility of subject positions” in this thesis. Subject positions represent “the specific interests and identity” of conflict parties (Diez, Albert et al. 2008: loc. 159). Hence, conflict is a construction rather than a historical given; and thereby, there is always feasibility of developing shared or overlapping subject positions among the conflict parties (Diez, Albert et al. 2008).

In this vein, conflict resolution aims at co-existence and reconciliation through altering incompatible interests and identities of local actors that are a direct part of the conflict. According to Wolff (2006: 3-4), ethnic co-existence becomes possible when incompatible political agendas are “transformed into state of compatibility” or when “the groups at least agree to put incompatible aims to one side and not seek to realise them at all cost”. Put differently, the role of conflict resolution is to facilitate reconciliation and locally accepted settlement by eliminating securitisation of identities, hostile perceptions of each other and even underlying ideologies and norms that enhance or prolong the conflict. Conflict resolution is “about rearticulation of subject positions so that they are no longer seem incompatible in most respects” (Diez, Albert et al. 2008: loc 356). To use more popular terms, conflict resolution is about addressing the structural causes of the conflict (i.e. incompatible subject positions) by third parties and incorporates various efforts at social, economic and political levels such as mediation, negotiation, peace-building or closer engagement through state or institution-building and democratisation.

In this thesis, conflict resolution is defined as a long-term strategy which aims at “addressing the principal political, economic, social and ethnic imbalances that led to conflict in the first place” with an aim to alter local subject positions that outlaw co-existence and decisive settlement (Jeong 2005: 4). The end result might vary between accommodating co-concerns and co-demands of parties through federal solutions or complex power-sharing agreements and the less likely option of accepting self-determination claims of one side. Nevertheless, in principle, the common objective of all external conflict resolution actors is to make hostile groups realise cooperation and co-existence is possible through democratisation and political and economic development in order to accommodate co-concerns of different parties.

1.4.2 Legitimacy and Legitimation

There is an important analytical distinction made in the literature between legitimacy of a government and legitimacy beyond the state. Within the confines of domestic politics, legitimacy is reproduced under the principle of popular sovereignty which ensures a balance between democratic participation, norms and values of the relevant society and outcomes (Bickerton 2008: 28). Legitimacy guarantees a general willingness or even an obligation for citizens to comply with the decision-making authorities. The focus of this thesis is not the democratic legitimacy of a government or a regime.

As stated earlier, as the global governance more resembles domestic governance in terms of its procedures and its effects, legitimacy becomes more a form of societal acceptance by various addressees of global rule making. As noted by Bernstein “the more ‘global’ governance looks like domestic governance, the more legitimacy demands will follow it” (Bernstein 2004b: 2). Legitimacy beyond its traditional sanctuary derives from a variegated group of addressees; and, contrary to democratic legitimacy, it does not foresee an unconditional will or obligation to comply with decision-making actors.

Another key distinction is made between legitimation and legitimacy that is central to the analytical perspective and arguments in this thesis (see also fn. 2). Bourricaud (1987: 57) notes that focus on legitimation instead of legitimacy ‘is not simply a verbal exercise’. According to Barker (2001: 26), legitimacy, despite its wider use in the political jargon and academic analyses, is not ‘a feasible subject of empirical or historical enquiry’. Legitimation, on the other hand, is about ‘an activity which can be observed’ (Barker 2001: 24). Legitimation, ‘as an activity, rather than the metaphorical condition or property like the concept of legitimacy, is what empirical or historical, as opposed to normative, social science is concerned with’ (Barker 2001: 19). In other words, ‘legitimacy is an ascribed attribute’ by the commentators on a political system based on normative formalism, whereas legitimation is concerned with ‘the action of ascribing’ power and meaning to an authority by its followers or addressees (Barker 2001). It implies the process of ‘making sense of power’ or ‘making sense of a different distribution of power’ to both who exercise power and who are subject to the exercise of power (Luckmann 1987: 111).

According to Cipriani (1987), legitimation is based on ‘two couples of behaviour’: from above and from below. The claims from above can stem from what the authority or decision-makers are convinced of, or these claims might well be based on a ‘cynical claim of validity for what one knows is not justifiable’ (1987: 1). Cipriani considers genuine

convictions and ‘cynical claims’ of the decision- and rule-makers as a part of the legitimization process. On the other side of the legitimization, there is collective audience’s shared belief or convictions that the actions of a rule-maker are “desirable, proper, or appropriate” within some socially constructed system of norms, values, beliefs, and definitions (Suchman 1995: 575). Claims from below might be ‘well-founded recognition’ of the authority and its actions and institutions or ‘de facto acceptance without foundation’ (Cipriani 1987: 1). Hence, ‘the roots of legitimization processes are to be found in intersubjective action ... in human social action, by justifying what is in the terms of what should be’ (Luckmann 1987: 110-1).

This thesis adopts the concept of legitimization, instead of the widely used term legitimacy. The use of legitimization signals a fundamental conceptual and methodological choice of the thesis. As an analytical tool, legitimization promotes a feasible ground for empirical research to understand and explain the characteristics of power and meaning of authority, since it offers an analysis of intersubjective actions and discursive practices by the rule- or decision-makers and their addressees in question. Barker (1994; 2001) states that talking about legitimacy of a government would not enhance our understanding about the characteristics of the government. Similarly, judging whether the EU is legitimate or not, according to some higher-ranking law or norms, would not improve our understanding about the nature of EU conflict resolution. The legitimization of EU conflict resolution grounded in the actual recipients’ (i.e. local stakeholders’) consent and support enables one to ask questions regarding the sustainability of the public authority exercised by the EU in conflict zones.

Legitimation, when applied to the case of the EU’s authority as a conflict resolver, is not only about analysing the traumatic or interesting events in a society living through a protracted conflict, but engaging with the support, accommodation or challenge for the EU as a conflict resolver, and the causes and consequences of the behaviour of the local addressees in a particular context (Beetham 1991). Hence, legitimization is a living source of authority contrary to legitimacy as an abstract term embedded in evaluations of commentators based on morality or normative power of the EU.

The intersubjective and dynamic aspects of the legitimization enable empirical research through an analysis of continuous ‘acts’ of legitimization shaped not only by the EU itself, but also acknowledged and supported by the locals. Therefore, legitimization does not overlook the common characteristic of all governmental and non-governmental authorities that is to claim prestige, credibility and support from the addressees (Cipriani

1987). Contrarily, the EU, as the bearer or the beneficiary of legitimation, can affect and shape the principal subjects' (the audience, the addressed groups) attitudes and perceptions, support or widespread dissent or challenge through its self-justificatory claims and actions. However, even when rules and decisions possess a "taken-for-granted quality", legitimation process is fed through a cognitive 'exteriority' (Boxenbaum 2008).

The reason for this thesis to employ the concept of legitimation is the choice in favour of distancing the research from the self-referential descriptions of the EU's legitimacy as an abstract property. Analysing the practices of legitimation as an act of ascribing meaning would help us understand 'why people have expectations they do about a power relationship, why institutions of power differ systematically from one type of society to another ... Above all, it helps explain the erosion of power relations and those dramatic breaches of social and political order that occur as riots, revolts and revolutions' (Beetham 1991: 6). This continuous process includes 'delegitimation modalities' signalled by increasing dissent, local resistance and challenge. By analysing the continuous dialogical process of legitimation, we can understand and explain the causes and implications of local accommodation of the EU and its conflict resolution related policies or local grievance towards it.

Adoption of the concept of legitimation also frees this thesis from the obligation of making judgemental statements about legitimacy or illegitimacy of the EU (recalling Barker (2001), such statements are not desired, since they do not enhance our understanding of the authority in question). When analysing legitimation, we can talk about the existence or absence of compatibility and consistency between the EU norms, decisions and policies and the local beliefs, ideas, convictions and actions (instead of talking about existence or absence of legitimacy). However, we cannot talk about the presence or absence of legitimation, since it is the basic process at work. There is 'no break ... in the processual nature of legitimation' (Cipriani 1987: 4). In Bourricaud's (1987: 63) words 'what interests us is not the state of legitimacy but the process' of legitimation. Wherever there is a power relationship, there are authorities who are in charge of decision/policy-making attempt to justify themselves through acceptable arguments and actions as well as there are individuals, groups or societies who are affected or addressed by these decisions and actions and who constantly evaluate the authorities to renew support and approval. 'Legitimation is a [continuous] process which is located in ordinary, everyday experience as well as in ideological supersystems' (Luckmann 1987: 112).

To sum up, the thesis conceptualises legitimation as appealing to the ground, i.e. to the actual recipients of the EU's conflict resolution policies. In this sense, legitimation looks into the dialogical relationship between the EU and the local actors in conflict zones. Only by focusing on the activity of legitimation as an intersubjective process between the EU and the addressees of in conflict zones, we can make sense of the self-referential, self-justifying claims and acts of the EU as well as supportive or challenging expressions and acts of the local audience. Following Barker's suggestion to put a moratorium on the use of the term legitimacy for the sake of empirical analysis (2001: 25), the concept of 'legitimacy' is not used in the following discussion, except when it unavoidably occurs when building upon the previous theoretical discussions on legitimacy/legitimation in Chapter Two.

1.4.3 Local Addressees and Local Groups

Local groups or addressees refer to all local stakeholders who in one way or another have experienced impacts of the ongoing conflict and conflict resolution efforts of the EU. Richmond and Mitchell (2001: 10-11) define the local as

the specific socio-geographic space in which peace interventions (and the violence that preceded them) unfold. ... In this sense, local is not to be essentialised or parochialised; it refers to a space that is, in a sense, transversal, transnational and even global ... Whilst the local is the realm in which everyday activities emerge and unfold, a *locale* is a unique local space conditioned by the everyday traditions, practices, values, identities and moral, ethical or 'radical' (i.e., root) sources of the groups in question.

In conflict resolution settings, the local provides the terrain where everyday local agencies meet, accept or contest the external conflict resolvers to "shape and texture" the conflict resolution agenda (Richmond and Mitchell 2001: 13).

In this definition, the level of victimisation of specific local groups in a conflict case is not important since spoilers, ordinary citizens, peace entrepreneurs, nationalist factions or former fighters are differently affected by the conflict and the conflict resolution process. Moreover, there is never a single coherent block of local (Chesterman 2007). There are different roles, different capabilities and different perceptions of local groups in terms of empowering or challenging the EU conflict resolution (Richmond

2011). Convictions and norms of local groups are not uniform, but likely to differ widely along ethnic and political lines.

In this vein, instead of approaching the local as necessarily passive recipients or pathologising them as corrupt, undemocratic and underdeveloped or seeing them through pedagogical lenses of ‘Western’ outlook, this thesis conceives local addressees as active agents with different experiences and expectations related to conflict and conflict resolution. Therefore, local groups are defined according to “a range of actors and terrains” (Richmond 2011b) that the EU needs cooperation and collaboration at different levels in order to unfold and implement its conflict resolution agenda. Three categories of local addressees are identified in this thesis: local politicians (including the opposition), local non-state actors such as civil society organisations, trade unions, youth movements, business associations; and public level (local communities or people).

1.5 Methodology

This thesis adopts a qualitative methodology for three reasons. First, it aims at exploring a complex social phenomenon (legitimation of an actor) in its natural setting (conflict societies) (Yin 1994). Second, it aims at conducting a complex and holistic analysis of the context and the particulars of different conflict cases through interpretative approach (Creswell 1998). Third, the analysis expects to unearth several explanatory paths and intervening factors to explain the impact of local agency EU on conflict resolution (George and Bennett 2005). In the following, the specific method of research, case selection, and data collection and management criteria are discussed.

1.5.1 Case Study: Process-Tracing & Structured-Focused Comparison

The thesis employs a ‘structured focused comparison’ method for two case studies in order to analyse the impacts of EU’s legitimation in Kosovo and North Cyprus where the EU has assumed a major role in the conflict resolution process. Yin (1994: 13) suggests that when the boundaries between phenomenon and context are not clearly deciphered and the contextual variables are so many and unclear to allow experimental methodology, case studies offer the best means to conduct empirical inquiry since they can deal with the complex causal link between numerous data and complex relations.

Case study is “a form of analysis where one or a few units are studied intensively with an aim to elucidate features of a broader class of-presumably similar but not identical-

units” (Gerring and McDermott 2007: 688)⁵. By paying attention to “observation, reconstruction and analysis” of the special instances under study, case studies combine theories with detailed knowledge of specific cases. At the end, empirical knowledge allows ‘opening the black box’ in order to discover the multifaceted occurrence of the instance under question (Gerring 2004).

The thesis employs an ‘embedded multiple case design’ due to the multiplicity of units of analysis concerning the main research enquiry (Yin 1994). Namely, each case is analysed separately in line with the four-part analytical framework derived from the literature on legitimacy and legitimation beyond state. In each case study, the same set of units of analysis is studied (local politicians, non-state organisations and public) by employing comparable sets of data (i.e. derived from similar sources. See data collection below). In order to engage in an in-depth analysis of each case, the thesis employs the method of process-tracing.

Process tracing was a valuable method for all stages of this research. First, at the stage of research design and case selection, this method allows the researcher to focus on the empirical puzzle at hand especially when the researcher has some understanding of the issue at hand. This thesis is also driven by an empirical puzzle and some assumptions based on a critical review of the existing EU and conflict resolution literature as discussed in the sections 1.2 and 1.3. The main inquiry of the thesis is the local agency and how/under what conditions it affects the EU conflict resolution engagements in Kosovo and Cyprus conflicts. In this sense, process-tracing enabled this research to avoid a strict variable-oriented research design or extraneous historical details, and to focus on identifying only the relevant research questions to help solving the empirical puzzle.

Moreover, the thesis aims to analyse the local agency through the analytical perspective of legitimation. As discussed in Chapters Two and Three in detail, this perspective is essentially intersubjective (i.e. it is based on the dynamic relationship between the local and the EU), contextual (i.e. it aspires to understand the particularities of the local groups in different settings) and sociological (i.e. it aims to reflect on the implications of EU engagement for different local groups with an aim to understand their attitudes and strategies). In order to analyse micro-level local attitudes, perceptions and strategies that are unique to each conflict case, a method that would allow a detailed data collection and analysis is crucial. In this sense, process-tracing was the best choice to

⁵ Unit can be spatially and/or temporarily bounded phenomenon such as states, political systems, elections, people, revolutions (Gerring, 2004:342)

analyse the empirical puzzle through a sociological-contextual approach. The main analytical logic of the sociological-contextual approach is to meticulously identify local actors as the subjects of the legitimization process, and their special relations with the EU framework and actors on the ground. In this sense, process-tracing allowed the researcher to take the historical complexities in Kosovo and Cyprus into account, but also to go beyond the historical narrative and theorize on the specific aspect that raised the empirical puzzle (George and Bennett 2005: 223).

Second, this thesis benefited from the process-tracing method at the data collection stage. Bennett and Elman (2007: 183) notes that process tracing encourages “relentless empirical research on these hypothesized processes, using a wide variety of sources (often including archived documents, contemporary news accounts, secondary histories, biographies or memoirs, and interviews)” and an exhaustive analysis of these sources. The data collected in this research do not only cover historical information, but also current developments, official and unofficial discourses, statements and policies to reveal the contextual and cognitive elements in the legitimization process.

Finally, the process-tracing method was chosen in order to analyse the complex and multiple intervening factors and units of analysis. When conducting analysis, process-tracer “is happy to combine a bit of this and a bit of that, the goal being to explain more completely the outcome at hand. The end result is partial, middle-range theory” (Checkel 2006: 367). This method allowed the researcher to think flexibly to explain multiple factors involved in explaining why a particular local group chose certain attitudes and strategies vis-à-vis the EU by taking both the historical and current phenomena into consideration. When drawing inferences from both cases, process-tracing aided the researcher to focus on the contextual and sociological explanations and micro-level factors to build a bridge between different theoretical and disciplinary approaches.

Despite being a useful method for research design, data collection and analysis, process-tracing “generate[s] and analyse[s] data on the causal mechanisms, or processes, events, actions, expectations, and other intervening variables, that link putative causes to observed effects” in a very detailed manner for a specific case (Bennett and George 1997). Usually, the researcher unearths multiple intervening factors to explain a complex outcome and bring a complementary explanation (or a middle-range theory) within the already existing theories. Bennett and George (1997) make an analogy between a detective and a researcher applying the process-tracing method. Like a detective, the researcher is involved in a demanding verification process of direct and mostly indirect causes of a

certain outcome and a meticulous search for case-specific evidence. As a result, process-tracing method provides less-generalisable and highly context-specific explanations. Especially, cases of protracted conflicts differ in terms of local attitudes and third party policies due to the specific circumstances that sustain the conflict enhancing environment. The findings of this thesis should be read with this limitation of the process-tracing method in mind.

After analysing each case (same of units of analysis and similar sources of data) separately, the thesis employs ‘structured-focused comparison’ as defined by George and Bennett (2005: 67): “the method is ‘structured’ in that the researcher writes general questions that reflect the research objective and that these questions are asked of each case under study to guide and standardise data collection, thereby making systematic comparison of the findings possible. The method is ‘focused’ in that it deals only with certain aspects of the historical cases examined”. In line with the logic of structured and focused comparison, the thesis identifies similarities and differences of legitimization processes and local agency in Kosovo and North Cyprus and conducts an analysis on the factors that generates different legitimization practices and their impact on conflict resolution.

1.5.2 Case Selection: Multiple-Case Design

Since the objectives of the thesis require a detailed examination of various local groups where the EU has shown a commitment to facilitate a solution, the first task of the case selection stage was to identify the conflict cases that the EU has shown a commitment and interest in taking a lead role in conflict resolution. Recently, the number and geographical scope of such cases has considerably increased⁶. Nevertheless, the EU does not invest the same effort and instruments in all of them.

The analytical perspective based on legitimization implies a dense relationship between the EU as rule and decision-maker and local groups. Therefore, the researcher focused on the conflict cases where the EU displays a holistic involvement in conflict resolution through multiple policies and instruments. It is expected that in such cases local perceptions of the EU are likely to show crucial differences among local groups. Hence, the cases where the EU aims at transforming political, social and economic systems are

⁶ <http://www.consilium.europa.eu/eeas/security-defence/eu-operations>.

considered to provide a more sophisticated testing ground for applying the four-path legitimisation framework, since multidimensional EU involvement implies an interaction with not only the local government but also with various other local groups. Another crucial consideration was to keep the cases within the geographical area feasible for fieldwork because on the ground research would be crucial to access local opinions and perceptions of the EU⁷. The conflicts that meet the above two criteria are listed in the table below.

As seen from the table, while some cases attracted immediate attention from the EU, interest for other cases did not go beyond an acknowledgement of the potential risks of the conflict for regional and international stability. Since the analytical perspective of legitimisation requires an examination of local ideas and support as dynamic phenomena, the level of local awareness and knowledge as well as the topicality of the EU policies in the course of daily life for local groups are important. Such an awareness and impact is most alive in the ongoing conflicts.

Therefore, only protracted conflict cases with no final outcome and continuing EU involvement were considered for empirical research. This led to the elimination of Western Sahara and Crimea cases where there is only a prospect of escalation of conflict and no visible EU involvement and the settled conflicts (Macedonia and Montenegro).

The remaining cases are strictly self-determination claims on various grounds where declaration of independence was not recognised by the majority of the international community, except in Bosnia and Herzegovina (Kosovo's independence was recognised by a remarkable number of countries; however, it is far from being uncontested). Cyprus, Kosovo, Abkhazia, South Ossetia, Karabakh and Transnistria conflicts have contested or unrecognised statehood. Each case has witnessed a period of military conflict between the recognised state and unrecognised secessionist state with considerable involvement of powerful external parties.

⁷ In this sense, the EU's current conflict management activities that remain limited to humanitarian assistance (Libya), border assistance (Rafah) or support and advice for good governance (DR Congo, Iraq) or advice for policing (EUPOL Afghanistan, Palestinian territories) were eliminated since they are limited in scope and outside the author's reach for fieldwork.

Name	Region	Type of conflict	Third parties	Main EU tools	Main EU policy
Abkhazia	South Caucasus	Ethnic-secessionist unilateral independence declared	Russia	ENP+ EUJUST Themis	Conditionality, ESDP mission
South Ossetia	South Caucasus	Ethnic-secessionist: unilateral independence declared	Russia	ENP+ EUJUST Themis	Conditionality, ESDP mission
Nagorno-Karabakh	South Caucasus	Frozen border conflict	Russia	ENP and EUSR	Conditionality
Western Sahara	Maghreb	Frozen secessionist	UN	ENP	Conditionality
Crimea	Caucasus	Ethnic disputes (conflict prevention)	Russia	ENP	Conditionality
Transnistria	Caucasus	Frozen secessionist	Russia, OSCE, EU	ENP, ESDP	Conditionality. EUBAM
Albanian minority in Macedonia	Balkans	Resolved Ethnic rights demands	EU	Enlargement (Formal candidate status)	Conditionality (negotiations have not started yet)
Montenegro	Balkans	Resolved secessionist dispute	EU	SAP	Conditionality
BiH	Western Balkans	Inter-ethnic dispute, independence claim	EU	Althea, EUPM, SAP	ESDP and conditionality, With future integration perspective
Kosovo	Western Balkans	Inter-ethnic dispute, Secessionist claim	EU and UN	EULEX, SAP	Conditionality with future integration perspective, ESDP mission
North Cyprus	Mediterranean	Frozen secessionist	EU, Greece, Turkey	Enlargement	Europeanization

According to Yin (1994: 61), if one has choice and resources, multiple-case designs are preferred since “analytic conclusions independently arising from two cases ... will be more powerful than those coming from a single case”. Ideally, all five cases would provide a good laboratory to analyse the legitimisation process given the peculiarity of the history of the conflicts and different conflict resolution commitments of the EU. However, in order to decrease the number of cases for a feasible research project, another criterion was applied at the case selection stage. The researcher identified varying levels and policies of the EU engagement to help construct a comparative study. In this sense, the EU policies can be categorised at three levels: enlargement and reunification (Cyprus), support for secession and a clear prospect of future EU integration (Kosovo, BiH), and denial of secession (S. Ossetia and Abkhazia; Nagorno-Karabakh; and Transnistria) and economic and political privileges granted to the recognised side (Georgia, Azerbaijan and Moldova) through institutionalised relations.

Karabakh and BiH are different from the rest of these cases. While Nagorno-Karabakh also displays the characteristics of an inter-state dispute (Armenia-Azerbaijan border is disputed), BiH is an internationally recognised state. In line with Yin’s suggestion for multiple case design, Kosovo and Cyprus conflicts were singled out as the most fertile cases to analyse a variety of different local groups in the secessionist party, since both represent the better examples of multi-dimensional, intensive efforts of EU conflict resolution where the EU has established the closest daily relations with various local actors, compared to Transnistria, S. Ossetia and Abkhazia. The EU offers exceptional tools of Europeanisation and integration as a crucial component of its conflict resolution agenda in Kosovo and Cyprus. The (prospect of) membership is actually considered as the main value added of the Union for resolving these two conflicts (Diez 2002; Stefanova 2011). Therefore, any final solution in Kosovo and Cyprus cannot be considered outside the framework of the EU as the main conflict resolver.

Still, the EU’s reactions to Kosovo and Cyprus conflicts considerably differ to allow a structured comparison (in terms of approach towards secessionist claims and the level of engagement with the separatist side). In the case of Kosovo, the EU has supported the right to independent statehood and engaged in state-building on the ground with a distant possibility of EU integration. In North Cyprus, until recently, the EU has denied any direct relationship with the local authorities. It has consistently rejected any right to independent statehood for Turkish Cypriots and its main policy for conflict resolution, i.e. enlargement, encouraged reconciliation and reintegration of Turkish Cypriots under a

common state. Against this backdrop, it is likely that local actors in Kosovo would be supportive of the EU agenda; while in North Cyprus security concerns and contesting ideologies and priorities of local groups would be determinant factors affecting the legitimization process.

It is worth mentioning at this stage that when selecting cases the thesis does not follow a variable-oriented controlled comparison, since the two cases did not match in every aspect but one (J. S. Mill's methodology). In the cases of ethno-national conflicts, it would be hardly possible, if not impossible, to find perfectly matching pairs to conduct a functional equivalent of an experiment. In this vein, two cases are analysed as 'heuristic case studies'. When conducting heuristic case study, the researcher studies a case in order to arrive at a preliminary theoretical construct which serves to find out new variables, hypothesis and causal patterns (Eckstein 1992; George and Bennett 2005). In heuristic case studies the "sequence of inquiry can be isolated from the rest of the sequence and case study deliberately used to stimulate the imagination toward discerning important general problems and possible theoretical solutions" (Eckstein 1992: 143).

1.5.3 Data Collection and Management

Given the fact that the nature of the phenomenon that is under exploration is complex and closely aligned with norms and beliefs, the thesis employs an exclusively qualitative approach towards data collection and analysis. Multiple data streams and triangulation of data are the most suggested way to trace the causal mechanisms and ensure validity of the final theorisation in dealing with qualitative data (Yin 1994; Checkel 2006). Various sources of data would substantiate proposals and hypotheses through providing the researcher multiple indicators and measurements of the explained pattern (Eisenhardt 1989).

In this sense, for each case three different local actors (politicians, non-state organisations and people) are analysed together with two levels of EU presence (as a framework or ideational constellation and as a policy actor with different policies and representations on the ground). The first group of data is collected at a formal level. The set of material consists of government reports, policy documents, proposals and action plans by the governments in relation to conflict resolution. Besides formal policy documents, what Kuus (2007: 9) calls 'public forms of storylines' are also analysed such as party programs, narratives used by policy makers and politicians including speeches and

public addresses. Besides formal public policy documents and speeches, press declarations and interviews given by high ranking government officials are incorporated into the set of data to examine local politicians.

The second type of material on local-EU relations and conflict resolution is collected at the semi-formal level. Local civil society reports, public declarations and opinions of non-state bodies are investigated. When reconstructing the ideas and actions of local non-governmental groups, speeches, declarations and quotations of representatives of civil society groups which appeared on local press are also incorporated into the collection of data. The reason for including the civil society as a distinct category of local actors is their acknowledged centrality in the conflict resolution process (Lederach 1997; Miall, Ramsbotham et al. 1999). For instance, Tocci (2010: 3) argues “civil society can provide the necessary push for peaceful social change, especially when top levels within a conflict context are unwilling or unable to budge on the fundamental issues of conflict”. Foley and Edwards (1996: 38) state that civil society in emergent democracies such as Kosovo and North Cyprus “are credited with effective resistance to authoritarian regimes, democratising society from below while pressuring authoritarians for change”. In principle, civil society plays a crucial role since they establish a link between conflict resolvers and local public because they give ‘voice to the voiceless’, and therefore raise issues which the locals assign priority.

Moreover, the EU engages in a close relationship with the local civil society organisations perceiving them critical sources of ‘monitoring, policy implementation and policy advice’ (Tocci 2010: 5). Civil society is expected to play a key role in democracy and human rights promotion due to their supportive and collaborative as close allies of the EU (Marchetti and Tocci 2011). Also, civil society actors pressurise conflict resolution actors to be more open, transparent, and collaborative (Marchetti 2011: 25). Therefore, civil society organisations in Kosovo and North Cyprus are likely to act independent of the political authority and have different impact on EU conflict resolution through the process of legitimisation. As Tocci (2008b: 6) notes “engaging with civil society is of the essence to enhance legitimacy, rootedness and thus long-term effectiveness of EU conflict resolution”. Therefore, the thesis delves into how local civil society’s perceptions of EU’s legitimisation shape, and whether it enables and encourages the EU vision of conflict resolution.

Besides official documents, report and press declarations of politicians and non-state groups, the collection of data for analysis include semi-structured interviews with the

heads or leading members of non-state organisations as well as representatives of various political parties, journalists and academics. The researcher conducted face-to-face interviews on the ground during the fieldwork to be examined as first-hand sources that allow the researcher to “probe beyond official accounts and narrative” (Tansey 2007: 767).

Since popular perceptions of the EU are vital to understand local support or disapproval for the EU and the EU-supported conflict resolution process, the thesis examines the public sphere as the third category. According to Renfordt (2007: 2), “[p]ublic discourses can be considered a forum where one can observe and ‘measure’ meaning structures and thus learn about commonly shared but also diverging viewpoints and convictions of a community”. In this sense, in order to extend the analysis beyond elites to ordinary level, public opinion, culture and attitudes are incorporated into the analysis. In order to support the public opinion analysis, various surveys conducted by UNDP, UNFICYP and academics on public opinion in relation to the EU conflict resolution as well as popular newspapers with different political affiliations are included in the data pool. In order to reach views of the younger population, online blogs with discussion corners on the EU and its role in the peace process are also consulted⁸. Online blogs are selected in accordance with the observed popularity of the blogs during the fieldwork visits among the youth in Kosovo and North Cyprus and the number of entries, an indicator which is considered to reflect the general attitudes of the younger populations.

In order to support popular opinion research, the thesis examines the local press coverage on the EU in both cases. Press coverage and presentation of certain issues related to the EU are incorporated into the analysis because the media in general serve as an effective tool to shape the general public view on a specific matter. Especially in conflict zones, press serves an important purpose; since the public is informed about the peace talks and third party involvement through press. Analysis of leading newspapers (the online versions and print media including reporting, editorials, and op-eds, if/when available) provides “mass public debates’ as well as ‘argumentative linkages’, common viewpoints and consensual interpretations” about the EU (Renfordt 2007: 4-5). In this sense, news reporting and commentaries in main newspapers in Kosovo and North Cyprus are analysed to reflect on the complex attitudes of the public.

Primary sources were collected or generated through fieldwork in Kosovo and North Cyprus. Kosovo fieldwork was conducted in May 2011. The semi-structured

⁸ It is assumed that people sending letters to the newspapers are likely to be mid/old-age. It is fair to assume that online blog writers are from younger generations.

interviews were mostly held in Priština/Prishtinë and Gračanica/Graçanicë with local civil society representatives, political party leaders, bureaucrats, journalists and youth organisations as well as representatives of International Civilian Office (ICO), European Commission Liaison Office and EULEX.

Fieldwork in Cyprus was limited to the Turkish controlled northern part of the island (i.e. the internationally unrecognised North Cyprus) and exclusively reflects on the Turkish Cypriot local groups. The researcher does not have a natural access to the entire field (the southern part under the effective control of the RoC) as a native Turkish citizen. Therefore, the findings exclusively reflect on the local agency of only one party to the conflict. While this is a limitation to understand the local agency in the Cyprus conflict, still, from an analytical point of view, it would be more rewarding to focus on the unrecognised party (the Turkish Cypriot side). Contested statehood cases are tough tests for the EU's legitimisation since the separatist entity declares its own parallel but unrecognised or contested governance mechanisms and adopt an ideology of independence. North Cyprus has an established body of political elite, social services provided for the public and local civil society. Various local groups in unrecognised states tend to share a common ideology which favours independence and prioritise this ideology over the norms and values of peace and settlement (Bahcheli, Bartmann et al. 2004; Lynch 2004; Berg and Toomla 2009). Hence, the EU agents on the ground are in need of local cooperation from all local groups in North Cyprus, despite its unrecognised status.

The fieldwork in North Cyprus was conducted in two cycles: February 2012 and May 2012. The data were compiled in the northern sector of Nicosia (Lefkoşa), Mağusa (Famagusta) and the in UN buffer zone (Green Line) which has lately become a meeting point for Greek and Turkish Cypriot civil society organisations. Interviews were conducted with civil society representatives, business associations, trade unions, political party representatives, the Commission Task Force for Turkish Cypriot community and the academics from the Eastern Mediterranean University. All interviews were digitally recorded, if allowed by the interviewee.

Press archives were mostly searched in the field. The newspapers were selected on the basis of their political orientation. The utmost effort is made to establish a balance between a wide spectrum of political views among dailies and the volume of circulation of newspapers. Detailed information on interviews and local newspapers are provided in Appendix A.

Together with secondary literature, primary data is processed to analyse the local perceptions, adoption, resistance or contestation to understand in depth the reasons and relations between reactions of various local groups in the empirical chapters. When analysing these primary documents, the thesis takes George and Bennett's recommendation as rule of thumb. These primary documents "are not necessarily to be taken at face value, and one has to see things in context to understand what they mean. One has to get into the habit of asking why a particular document was written- that is, what purpose it was meant to serve" (George and Bennett 2005: 107).

All primary documents, interviews, press sources are cited as footnotes. Otherwise, the thesis uses Harvard system of referencing for the secondary sources.

1.6 Outline of the Thesis

This thesis consists of four main parts. In what follows, *Chapter Two* begins with a comprehensive review of the existing literature on the definition and sources of legitimacy in political theory, and especially the particular features of legitimation of non-state actors as agents of international/global governance. Chapter Two aims at discussing the concept of legitimacy/legitimation beyond the nation-state and identifying the theoretical background of the four-path analytical framework. The chapter demonstrates that there is an already established ground in the literature that legitimacy is also a necessity as a reservoir of power and authority for non-state actors at the global/international level. Increasingly, the statist and legalist approaches are left in favour of a sociological and contextual approach which take attitudes, convictions and support of groups and people who are affected by decisions of international/global rule-makers into account.

Chapter Three, as the last chapter of Part I, lays out the analytical perspective on the patterns of legitimation of the EU in the conflict resolution field. This theoretical framework borrows from the previous discussion on theories and conceptualisations of legitimacy as presented in Chapter Two, but seeks to introduce a comprehensive model in order to address the complex patterns of legitimation for EU conflict resolution. The framework offers four potential paths of legitimation to analyse and explain the intersubjective process of legitimation between the EU and local groups.

Part II&III deal with the empirical work on the Kosovo and North Cyprus cases, respectively. *Chapter Four* focuses on the 'EU side of the legitimation process' or 'the EU template' in Kosovo and identifies the EU's agenda as a framework and a policy actor by

looking at various discursive justifications and policy instruments of the Union. *Chapter Five* discusses the local template in Kosovo in order to demonstrate how the contextual conditions shape the perceptions, ideas, policies, and overall support of the local groups. In *Chapter Five*, the EU's multidimensional involvement in the conflict resolution since 2008 declaration of independence is assessed⁹. Triangulated primary and secondary sources are studied to offer a detailed analysis of the EU's legitimation process not only as a constellation of ideas and norms but also as a dynamic actor which designs and implements policies on the ground. The chapter finds a close link between the EU's emphasis on its normative disposition and long-term performance and accountability to the local non-governmental groups on the ground. The major finding of the chapter suggests that if the EU's conflict resolution is perceived as intrusive and unaccountable by the non-governmental local groups (civil society, NGOs, youth organisations and the public), it is less likely for the EU to secure local diffuse support. Consolidation of clientelistic elite and alienation of non-governmental groups and public from EU conflict resolution process are the indicators of the side-effects of the mismatch between EU priorities and policies and various local groups.

Chapter Six turns to analyse the EU's normative framework in addressing the conflict in North Cyprus by looking at the Union's strong discursive justifications and active policy engagements to gain recognition and secure cooperation from the local groups in the unrecognised part on the island. The chapter discusses that the EU's legitimation practices were more rhetorical and divided in the pre-accession phase of its conflict resolution engagement. In the post-accession period; the EU has adopted a more policy-oriented approach and correctly identified the expectations and priorities of Turkish Cypriot local groups. *Chapter Seven* applies the four-path framework to analyse the local side of the story in North Cyprus after 1990¹⁰. The local actors display a fragmented agency in North Cyprus. Chapter Seven shows that the presence of autonomous pro-peace local groups provided the EU with a broad-based support. Nevertheless, the incongruence between the EU commitment and actual performance has been counter-productive for the initial broad-based local support for EU framework. In this sense, the lack of official or informal representation of Turkish Cypriot community and continuing economic and

⁹ Although the EU has engaged in Kosovo conflict resolution since 1999 as a part of UNMIK, its role and tangible policies as a conflict resolver unprecedentedly increased after Kosovo's declaration of independence.

¹⁰ The timeframe for analysis is also selected to reflect the most intensive period of the EU involvement in conflict resolution. 1990 is the milestone of the EU's engagement with the Cyprus conflict, when the Republic of Cyprus applied for membership for the entire island.

social isolations are the major areas that the Turkish Cypriots have incompatible expectations and priorities. More importantly, while they are demanding these rights as EU citizens, they challenge the normative disposition of the EU by pointing to the monumental gap between its rhetoric and practice. The widespread disillusionment with the EU affects the Union's efforts to bring a decisive solution to the conflict by boosting a mainstream scepticism against the EU's involvement in the conflict resolution process.

Part IV starts with *Chapter Eight* which compares and assesses the findings of the empirical chapters. It evaluates the four pathways of legitimization by emphasising the cross-case implications on the legitimization process, identifying the similarities and divergences between the two cases. The chapter also evaluates the analytical perspective of legitimization in explaining local adaptation and resistance to the EU agenda and exploring the sources, content and solutions for lack of societal power for the EU in conflict zones. Finally, *Chapter Nine* concludes the thesis briefly by summarising the general findings, reflecting on the general contributions of the thesis and pointing to future directions for research.

Chapter Two – Legitimacy/Legitimation in Theory: Definition(s) and Sources

2.1 Introduction

Legitimate rule is traditionally associated with the domestic sphere of states and democratic principles. However, it is fair to claim that legitimacy is not strictly confined to the nation-state. Its philosophical background refers to a much older phenomenon: the power or authority to make binding rules and decisions. Legitimacy associates this authority with the consent of “at least the most important among the subordinates” (Beetham 1991: 3). This aspect makes legitimacy applicable to various systems of governance and rule-making, and a dynamic concept in terms of specific sources and mechanisms to legitimate a rule-maker within diverse contexts and types of governance.

This chapter aims at defining the concept of legitimacy in order to build upon this concept for a framework of legitimation. The aim of this chapter, however, is not to settle the meaning of legitimacy once for all but *to allow contextualisation* of it beyond its long standing sanctuary, i.e. domestic spheres of nation states. More importantly, it addresses the sources and processes of legitimation of various institutions and actors beyond (democratic) state level. By doing so, the chapter seeks to set the background discussion and to categorise the existing accounts of legitimation for the analytical framework of the thesis (as presented in the next chapter).

The chapter starts with reviewing the political science literature as well as studies on the concept of legitimacy in sociology and psychology in order to offer a clear and comprehensive definition. Then, the chapter enquires into the concept as evolved in various IR theories. The exiting literature hosts an array of theorisations and definitions of legitimacy. As demonstrated throughout the chapter, various approaches have been offered in relation to why an international actor seeks legitimacy, what an actor gains through it and what legitimacy does in relation to policy-making and implementing at international or transnational/global level. In this sense, the chapter argues that the statist and post-national democracy approaches do not capture the essence of the problem of legitimation within the increasingly complex global decision-making environment. However, the students of global governance provide a promising start to frame the legitimation of international actors such as the EU with a focus on the dynamic, intersubjective and context-dependent tenets of legitimation.

2.2 Definition and Properties of Legitimacy

Appblaum (2003: 81) states that the word “legitimacy” comes with heavy baggage from political philosophy and “if we want conceptual clarity, we had better pack lightly”. Following Appblaum’s advice, in the simplest sense, legitimacy can be defined as the connection between the ‘actual’ political rule and ‘rightful’ political rule’. This connection has always been a central question concerning every politically organised system. In this sense, the basic function of legitimacy is to define whoever has the right to set and implement rules.

The craft of legitimacy, then, becomes *how* this ‘right’ to make rules can be obtained and maintained. At this point, the concept of legitimacy is subject to many interpretations. For instance, for moral and political philosophy, rightful rule is whatever is morally justifiable (Beetham 1991:5). However, moral justifiability to determine rightful rule remains only an abstract source and is usually considered along with other sources. For legal scholars, legitimacy equals acquisition and the maintenance of power in accordance with the established law. However, a legal approach does not leave room to question if the law itself is valid and legitimate. While a legal approach still provides an important component of the legitimate exercise of power, it does not deal with the question of how to set rightful law. Increasingly, the notion of legal validity as the only source of legitimacy is questioned especially since law is subject to perpetual alteration. On the other hand, social scientists are more concerned with the subjective evaluations of the subordinates of rule-making authorities as well as with the implications of rightful rule-making rather than with abstract moral criteria or legal validity (Beetham 1991). Social science approaches contend that rightful rule derives from the constituency (addressees or recipients of the rule).

As a result of this wide spectrum of conceptualisations, some authors even suggest that legitimacy is “a whole synthesis of meanings which no single definition could possibly encompass” (Mulligan 2006: 353). At this point, it is better to turn to psychological accounts of legitimacy in order to understand what it pertains to at individual and society levels. According to Tyler (2006: 376, emphases added), legitimacy refers to

the characteristic of being legitimized by being placed within a framework through which something is viewed as *right* and *proper*. So, for example, a set of beliefs

can explain or make sense of a social system in ways that provide a rationale for the *appropriateness* or *reasonableness* of differences in authority, power, status, or wealth. This has the consequence of encouraging people to accept those differences. Irrespective of whether the focus is on an individual authority or an institution, legitimacy is a property that, when it is possessed, leads people to *defer voluntarily* to decisions, rules, and social arrangements.

Jost and Major's (2001) psychological approach to legitimacy similarly refers to people's "ideological rationalisations" in the form of "attitudes, beliefs and stereotypes" for the actions taken by others on behalf of groups or systems. According to the definitions at the individual and societal level, legitimacy refers to an attitude towards decision-makers who hold a 'different' or 'differentiated' status within the relevant community. This attitude ensures voluntary deference to and compliance with superior authorities by individuals and/or society. "Having legitimacy facilitates the ability to gain decision acceptance and to promote rule-following" (Tyler 2006: 379).

Coicaud and Heiskanen (2001: 259) apply the psychological approach to politics. In their words, legitimacy refers to "the process through which political differentiation – the fact that there are people who govern and others who are governed- is justified". In relation to democratic systems, the significance of legitimacy lies in its effects on the power relationship between the government and the people. People, i.e. citizens, defer to and cooperate with legitimate authorities because they feel it is right to do so (Jackson and Bradford 2010). Legitimacy provides people with 'moral grounds for cooperation and obedience' (Beetham 1991). Therefore, legitimacy, in the most general sense, can be described as "the right to be recognised [as binding], to have remit over a certain area of life, and to command and be obeyed" (Bradford and Jackson 2011: 4).

There are numerous similar definitions of legitimacy, but there are three key features that all definitions capture: first, legitimacy refers to a source of power that is consensually constructed between rule-makers and rule-takers. Legitimacy is an expression that refers to the governance arrangement when it is structured and exercised in a mutually accepted manner by the rulers and people. The latter's beliefs, values and attitudes become key factors in determining this power besides the rule maker's norms, self-justifications and behaviour (Hegtvedt 2004).

Second, legitimacy evokes voluntary acceptance and compliance by people with rule maker's decisions "regardless of the content of the law or instruction because

legitimacy represents the rightfulness of power” (Bradford and Jackson 2011: 4). Some authors even refer to this voluntary compliance as an ‘obligation’ for rule takers (Dworkin 1986; Raz 1986; Simmons 1999). In this sense compliance as a result of legitimacy is different from compliance resulting from threats, coercion or pure self-interest. Legitimacy as a source of power stems from the fact that people recognise decision-makers (the government or various institutions and people that represent the government) and voluntarily cooperate with them. As Buchanan and Keohane (2006: 407) state, “we should support or at least refrain from interfering with legitimate institutions”.

Third, as Beetham (1991: 26) warns us, “this obligation [to cooperate or comply] is not absolute ... But it is the right that legitimacy gives authority to require obedience in principle”. Whilst “enhanced order, stability and effectiveness” (Beetham 1991: 33) represents the power that is generated by possessing legitimacy, “appraisals of illegitimacy may stimulate collective responses” from rule takers (Hegtvædt 2004: 104).

2.3 Sources of Legitimacy

Until we turn to the sources and mechanisms that generate legitimacy in a power relationship between the rule maker and people, definitions of legitimacy would remain abstract. Put differently, we should enquire according to what criteria people defer voluntarily to the decisions of a rule-maker. Traditionally, theories of legitimacy make a particular distinction between empirical (or descriptive) and normative (or prescriptive) sources of legitimacy.

The *empirical source* of legitimacy is related to when and under what conditions people recognise, respect and obey a certain government and when they revolt and attempt to change the source of authority, i.e. the government or the regime itself. The empirical approach conceives legitimacy in reference to a subjective understanding; an understanding that generates acceptance of authority by the people and obligation to obey its commands. The subjective understanding can be called *belief of the constituency* which derives from people’s (subjects’ or subordinates’) faith in the prestige of the authority.

The empirical approach to legitimacy is widely attributed to Max Weber. According to Weber (1964: 382), “the basis of every system of authority, and correspondingly of every kind of willingness to obey, is a belief, a belief by virtue of which persons exercising authority are lent prestige”. The empirical approach is praised mainly because “faith in a particular social order produces social regularities that are more

stable than those that result from the pursuit of self-interest or from habitual rule-following” (Peter 2010). The main argument of the empirical approach is that regimes and institutions might strongly claim that they possess the right to rule based on moral value, legal authority or any other sources; but, they might be still deemed illegitimate, if their constituency lacks belief in their prestige. The prestige in the eye of the constituency can be constructed through moral goodness and/or effectiveness of the rule implementation.

A Weberian blueprint for legitimacy as the constituency’s belief has been followed by many scholars. For example, Carl Friedrich (1963) defines legitimacy in his “Man and His Government” as a matter of *perception of the people* for their government. Linz and Stepan (1978 cited in Cipriani 1987: 13) state that legitimacy derives from the *belief* that “in spite of its shortcomings and failings, the existing political institutions are better than any others that might be established, and that in spite of shortcomings and failings, they therefore can demand, obedience”. Similarly, in his widely accepted definition Lipset (1959 cited in Dogan 2004) states that legitimacy can be conceptualised as “the capacity of the system to engender and maintain the *belief* that the existing political institutions are the most appropriate ones for the society”. Etzioni (2011: 105) also defines legitimacy as “the product of *aggregated consent* accorded by individuals to a given act, policy, law, public institution, or authority”.

In short, the empirical source of legitimacy as the belief and acceptance of the relevant constituency has been appealing for many scholars. The majority of scholarly works still considers legitimacy of a government as a simple empirical condition; and, thereby measures public opinion through surveys. Many others contend that efficiency -the satisfaction of intentions related to the pre-established goal- and effectiveness - achievement of a pre-established goal- by the rule maker becomes an important component in determining the subjects’ beliefs (Cipriani 1987:13). By favouring strictly descriptive criteria, these accounts aim at providing some concrete measures in order to avoid externally defined abstract criteria (Steffek 2007).

However, legitimacy as an empirical category stemming from people’s belief has attracted many criticisms from the adherents of the *normative source* of legitimacy. According to Grafstein (1981), Weber’s fascination with power and stability and his interest in fact-value distinction persuaded him to devise a ‘scientific’ approach towards legitimacy. At the end, Weber sterilised the concept from normative aspects and distorted its essential meaning (Steffek 2007). Beetham (1991: 8) defines Weber’s empirical approach which is free from any moral judgement as “an almost unqualified disaster”. For

Beetham, the analysis of legitimacy should go beyond reporting about other people's beliefs because pure empirical approach "leaves the social scientist with no adequate means of explaining why people acknowledge the legitimacy of power at one time or place and not another" and thereby "encourages bad social science" (1991: 10). Coicaud (2002 cited in Etzioni 2011: fn.5) also states that

although legitimacy is indissociable from the faculty of judgment, most works and reflections that make use of it are loath to take into account the dimension of judgment it implies. They refuse to conduct research into the conditions for the right to govern by inquiring about the criteria used to evaluate political life. Max Weber's analyses of legitimacy . . . have a great deal to do with this phenomenon'.

Empirical approach is also criticised as reducing legitimacy to a mere submission to authority that can legitimate even tyrannical rule, if supported by its people. In other words, the empirical approach ignores the correctness of procedures, the justification of decisions and the fairness in treatment to subjects (Grafstein 1981: 456). Therefore, critics argue that theories of legitimacy ought to question what processes or factors account for the fact that a given population considers a given act as legitimate.

Indeed, political philosophy attributes legitimacy to some pre-defined and even formulaic normative standards. It identifies the prescriptive conditions under which a government, person or an institution is legitimate and thereby worth obeying. The normative approach simply claims that the pre-defined criteria or benchmarks of justification that are exogenous to the belief of the relevant population confer legitimacy to rule makers. Normative prescriptions are usually moral and legal principles that are defined independent of the regime and the subjects' beliefs. Such prescriptions provide a distinct set of sources that define *moral obligation* for subjects to abide by the rule. In democratic systems, normative criteria for legitimacy are determined as regular, effective and equal participation channels including voting and direct and indirect accountability mechanisms.

In the normative approach to legitimacy, the empirical disposition of the population is not relevant because the beliefs of the population are not the actual source when legitimacy is determined as the fit of the rule-maker within the prescriptive standards. When there is congruence between the actual rules and procedures and the recipe of legitimate authority (i.e. pre-defined normative standards), obedience from subjects should

follow¹¹. If the institution, state, rule or any other actor does not meet the normative conditions, then unjustified holding of power does not entail any moral obligation to cooperate with the rule makers¹². Therefore, legitimacy answers “how the accolade of legitimacy may be conferred” to the authority, regime or actor in question (Barker 1994: 101). According to Peter (2010), the normative source of legitimacy “both explains why the use of political power by a particular body- a state, a government, or a democratic collective is permissible and why there is a *pro tanto* moral duty to obey its commands”.

Nevertheless, the normative approach is also not free from criticism. The question of who actually defines these moral criteria for legitimate authority and the absence of universally agreed principles for legitimacy are the most common concerns about the normative approach. Some authors also argue that consent or belief of the population does not exist apart from the “moral standing of the act in question” (Etzioni 2011: 106). Furthermore, usually legitimacy is equated with justice in normative conceptualisations which creates ambiguity in identifying legitimate authority (Peter 2010). The two main sources that are accepted by the mainstream theories of legitimacy for an actor are summarised in the table below:

Sources of Legitimacy	
Empirical	Normative
Cognition or the belief of the relevant subjects that the regime or institution is legitimate. The belief brings ‘faith’ and ‘compliance’ with the ‘ruler’ or ‘government’.	Pre-defined moral principles and legal rules that are exogenously determined and checked against the characteristics of the regime or institution.

¹¹ There are different normative interpretations of the relationship between legitimacy and obligation to obey the commands of the rule-maker in political philosophy. Broadly speaking we can distinguish between Lockean (liberal) and Rousseauan/Kantian (republican) understandings. Regarding the relationship between justification, legitimacy and political obligation; scholars descending from the Lockean tradition state that justification might take place independent of legitimation. In other words, authority is morally justified at the beginning, i.e. when people and the authority agree on ‘the contract’ through the consent of subjects. But what confers legitimacy to the authority is the ability to generate political obligations (Simmons, 2009). The second view is opposite of the Lockean tradition that legitimacy is the moral justification of political authority. In other words authorities might exist or even become effective in creating obligations without legitimacy – i.e. without being justified morally. But only just authorities are morally acceptable by the audience and therefore legitimate. This view resulting from a Kantian reading of morality and legitimacy has created an ambiguity regarding the relationship between justice and legitimacy. In practice, liberal and republican traditions usually exist as a mixture in modern democratic states. For a detailed discussion see Scharpf, F. W. (2009) "Legitimacy in the Multilevel European Polity." Max-Planck-Institut für Gesellschaftsforschung Working Paper February 2009.

¹² However, obedience might still exist due to other factors such as fear or self-gain, but we cannot speak about legitimacy under these circumstances.

In short, the main deficiency of the normative approach is to define universal, moral or legal criteria to predetermine criteria for legitimacy. On the other hand, if sources of legitimacy are totally left to the observers or to the rulers as suggested by the Weberian empirical understanding, all kind of authorities (even tyrannies) can become legitimate at a given time (Barker 2001). Therefore, we need more contextualised forms of normative and empirical sources, and preferably a synthesis of them.

2.4 Bridging the Normative-Empirical Divide

Legitimacy cannot be described only as a normative property of a regime or institution since it is hardly possible to divorce moral and legal principles from the societal traditions and values. In other words, any constituency's values and norms do not exist independent of their subjective evaluations. For many, legitimacy derives from multiple sources: conventions, contracts, universal principles and norms, expertise, popular approval and personal quality of rulers which are all subject to change (Matheson 1987). A mutual relationship between the beliefs of the subjects and normative criteria makes up the natural sources of legitimacy. According to Suchman (1995: 574), "legitimacy is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions". In this definition, cognition or approval of people in favour of the rule-making entity are determined in light of contextual norms, values and beliefs. Similar definitions are suggested by other authors. For example, Matheson (1987) suggests five separate principles of legitimation: convention, sacredness, personal ties, personal qualities and rationality that incorporate both subjective evaluations of constituency and prescriptive criteria. Easton (1965) offers another typology based on ideological, structural and personal dimensions of legitimacy.

Beetham (1991), known by his comprehensive account of legitimacy, is acknowledged to have developed one of the best syntheses of the normative and empirical approaches. Beetham (1991:11) contends that a pure Weberian perspective cannot be the sole basis for legitimacy; "a given power relationship is not legitimate because people believe in its legitimacy, but because it can be justified in terms of their beliefs". In Beetham's theory, there are three sources of a legitimate rule or institution: *conformity* to rules (legality), *justifiability* through shared beliefs by both the dominant and subordinate (justifications), and explicit *consent* by the subordinate (actions). For each component that

contributes to legitimacy, Beetham (1991:20) discusses an opposing situation where legality, justifiability and explicit consent are absent: illegitimacy (breach of rules), legitimacy deficit (discrepancy between rules and supporting beliefs or absence of shared beliefs), and delegitimation (withdrawal of consent). The three dimensions of legitimation and delegitimation offered by Beetham are summarised in the table below.

Legitimation	Delegitimation
<i>Legal validity</i> : conformity to rules	<i>Illegitimacy</i> : breach of rules
<i>Justifiability</i> : in line with shared beliefs between those in power and people (masses or electorate)	<i>Legitimacy Deficit</i> : i: discrepancy between rules and supporting beliefs ii: absence of shared beliefs
<i>Consent</i> : explicit expression	<i>Delegitimation</i> : withdrawal of consent

Source: Author's summary, adapted from (Beetham 1991)

Beetham's theory has its strength in attributing importance to the role of the addressed subjects in constructing/conferring legitimacy. At the same time, by emphasising shared beliefs in justifying the rule, institution, or regime, Beetham brings contextualised values and morals of the people to the picture as justifiability. In other words, Beetham's account of legitimacy avoids universalised values and beliefs, whilst taking legal rules and shared morals/ideas seriously (O'Kane 1993: 473).

To sum up, in order to overcome the weaknesses of purely empirical or purely normative approaches, a synthesis of the two sources is required. In this way, many authors suggest to focus on dynamic acts of legitimation that are shaped by self-justifications of the authority, previously defined normative criteria and subjective evaluations of the constituency.

2.4.1 From Legitimacy to Legitimation

If regimes, institutions and governments are considered legitimate when they meet prescriptive criteria or when they rely on beliefs from people, and illegitimate when they fail to do so, legitimacy becomes a static credential that is either existent or absent.

However, a strict differentiation between purely legitimate and purely illegitimate regimes, governments or institutions does not facilitate a useful analytical tool for research. In fact, “many regimes and institutions are constantly striving to shore up their claims to legitimacy” (Ansell 2004: 8706). As Herz (1978: 320) notes, “[l]egitimacy runs the scale from complete acclaim to complete rejection...ranging all the way from support, consent, compliance through decline, erosion and loss”. The variety of rule makers and governance systems makes legitimacy more than a dichotomy (i.e. legitimacy vs. illegitimacy); thereby, “legitimacy must come in degrees” (Dogan 2004: 119). In this vein, Barker (1994: 104) notes that “[t]he study of legitimacy has become not so much a case of judging whether regimes are legitimate or not, or even how legitimate they are, but rather of asking in what ways, and with whom, they enjoy legitimacy, and in what forms and *degrees*”.

Legitimation refers to a dynamic process through which an authority or state of affairs ‘is to be made legitimate’ (Cipriani 1987: 110). It is “the process whereby social knowledge explains and justifies prevailing social reality [about the government or regime]” (Cipriani 1987: 9). Contrarily, legitimacy or illegitimacy is a static descriptive term that does not allow researcher to look at the process and reasoning. In order to understand the relationship between the rule-making authority and its addressees, it is more important to analyse the process through which the meaning and power is conferred to rule-makers by the addressees of its decisions and policies. Through legitimation, we can understand how the rule- or decision-makers maintain or lose power and meaning. Legitimation looks into the “intrinsic links” between “rule (in the sense of making decisions that are binding on all) and power (in the sense of compellence [to abide by the decisions])” (Kratochwil 2006: 304). Hence, the subject matter of investigation is always the process or act of legitimation, rather than describing a state of legitimacy or illegitimacy for governments, institutions and other authorities. Focusing on the process or acts of legitimation solves two important problems that a focus on the concept of legitimacy raises: the explaining the continuous relationship between rule-maker and rule-takers and the classification of legitimacy-seeking authorities (or handicaps of measurement).

First, legitimation, as an analytical perspective, provides the researcher with a more useful analytical concept to evaluate or measure various rule-makers according to both normative and empirical criteria. Legitimation is fed by normative sources; namely, “it is oriented towards not only what is but also what ought to be” (Cipriani 1987: 9). It is also fed by subjective evaluations. By conceptualising legitimation as a notion fed by

normative evaluations and contextual specific judgements of the addressees of rules and justificatory claims and actions of the rule makers, legitimation serves both as a “conversation stopper” by “providing reasons for the presumptions of why a decision or a law ought to be supported” and as a “conversation opener” when the actions of the rule maker are scrutinised and when “the implied presumption is weakened on factual or normative grounds” (Kratochwil 2006: 304-5).

Therefore, the process of legitimation “calls attention to the two-sided nature of legitimacy” that defines the special relationship between the rule-maker and rule-takers (Ansell 2004: 8706). On one side, acts of legitimation are about the beliefs of the addressed audience in the moral rightness or goodness of the rule-maker. Steffek (2000: 6) notes people generate beliefs “on the grounds that they believe in its [rule maker’s] normative rightfulness”. These beliefs stem from a variety of sources such as procedural rightness, input and output. On the other side, legitimation process focuses on the claims of regimes or institutions about their moral rightness or goodness that aim to shape the attitudes and convictions of the addressees (Ansell 2004: 8706). In other words, the rule-maker’s (normative) claims to legitimacy in terms of validity and appropriateness of its actions (in the form of self-justifications) constitute an important aspect of legitimation. This special relationship between beliefs of subjects and self-justifications of the rule-maker creates a ‘push and pull’ effect between the rule-makers and rule-takers. This ‘push and pull’ constitutes the essence of legitimation process and ensures maintenance of the authority of the former.

Second, the strict polarisation between legitimate and illegitimate would only capture a few governments, institutions, regimes etc. because very few of them are totally legitimate or illegitimate. As noted by Dogan (2004: 119), “legitimacy never reaches unanimity, nor do groups and individuals ever recognize equally the authority of the political power. There are apathetic popular strata and rebellious subcultures, pacifist dissidents and armed terrorists, and between these extremes many who are only partially convinced by the pretensions of legitimacy claimed by the rulers”. In this sense, legitimation as a process provides a more practical tool to categorise the majority of legitimacy-seeking authorities individually or in groups. In this sense, recognition and support of the majority of the constituency and collective widespread contestation are thresholds for legitimation.

To sum up, legitimate and illegitimate authorities are the two poles of the legitimation process representing extreme cases. The majority of governments and other

types of authorities usually rank in between. Moreover, descriptions as legitimate or illegitimate usually do not call attention to the dynamic relationship between rule-makers that push for its own legitimation through self-justifications and actions and rule-takers that push and pull the rule-takers through acceptance, support or challenge. As will be discussed later in the chapter, legitimation process also lies at the heart of the discussions concerning rule-making authority of non-state actors beyond domestic politics.

2.4.2 Objects of Legitimation: Diffuse and Specific Support

Having discussed the sources of legitimation as a fusion of normative (legitimation through prescriptive norms, legal rules, values, procedural qualities) and empirical (legitimation through belief of the people, input or participation, outcomes) approaches, the objects of legitimation still remains unclear. In other words, we still need to answer ‘what or whom is legitimated’? The short-cut answer is the rule-making entity, the government or the authority. Nevertheless, none of these entities can be considered as single uniform bodies. Can we differentiate between the parts of the authority which make rules, implement them and demand compliance?

The concept of *support* captures this differentiation between the segments of the authority. Support from the constituency deals with the question of explicit consent as called by Beetham (see above). Support refers to the way of *expressing acceptance* by the groups that are subject to the rules and decisions. According to David Easton (1975: 436), support is related to ‘overt behaviour’; it derives from evaluations that make constituency (i.e. citizens, individuals, groups and so on) orient themselves “to an object either favourably or unfavourably”. More importantly, support can be directed towards different levels of authority:

Some types of evaluations [by the relevant constituency] are closely related to what the political authorities do and how they do it. Others are more fundamental in character because they are directed to basic aspects of the system ... Transparently, not all expressions of unfavourable orientations have the same degree of gravity for a political system. Some may be consistent with its maintenance; others may lead to fundamental change (Easton 1975: 437).

Given these premises, support might be provided for incumbents of the offices and specific policies or for the overall regime or the system. Similarly, the withdrawal of support might

yield to a demand for change in current policies and officeholders or to an overall change in the political system. At this point, Easton distinguishes between *specific* and *diffuse support* in order to capture the difference in expressing acceptance for different components or levels of the rule-maker. In Easton's typology of support, specific support means temporary support for an incumbent institution and/or particular policy; thereby it is 'object-specific' (Easton 1965). Specific support represents the satisfaction that people have when they evaluate the outputs and performance of policy-makers. "It is directed to the perceived decisions, policies, actions, utterances ... of these authorities" (Easton 1975: 437). The criteria for evaluation are people's own needs, demands, and priorities. There should be a match between "perceived outputs" or "perceived general performance" and "articulated demands" in order to create specific support (Easton 1975: 438). If performance fulfils the constituency's needs and demands, the particular policy-makers or institutions are endowed with specific support that is "contingent on popular demands being expressed and explicitly satisfied" (Easton 1975: 439). Unsurprisingly, this type of support varies with perceived benefits and satisfactions of the constituency based on their expectations and needs.

On the other hand, diffuse support represents genuine trust and belief in the overall system, government or regime; and provides sustainable authority independent from specific support. Easton (1965: 273) notes that diffuse support "consists of a reservoir of favourable attitudes or good will that helps members to accept or tolerate outputs to which they are opposed or the effects of which they see as damaging to their wants". It represents people's general attachment to the authority's *raison d'être*, while the specific support for policies might rise and fall. Diffuse support seeks to bring support for actor's values, norms and identity into the picture instead of action oriented focus of specific support; therefore it is considered more durable (Easton 1975). The relevant population expresses its diffuse support in the form of 'trust or confidence' and 'sense of we-feeling' (Easton 1975). Diffuse support is more long lasting than specific support, but once it is tarnished it is difficult to restore.

An example from democratic states can clarify the difference between diffuse and specific support further: citizens who are extremely discontent with the incumbent government keep their trust in the democratic processes of the country. In other words, they possess diffuse support but deny specific support to the current government. They probably hope that the next elections would bring a change of office-holders.

Nevertheless, no regime or governance can exclusively rely on either type of support for a long time. Specific and identifiable satisfaction with current actions as well as minimum diffuse support for the overall system of governance is necessary for maintaining the legitimacy. Easton also argues that there is a close relationship between the two types of support in the long term. Diffuse support might be generated through “spill-over effects from evaluations of a series of outputs and of performance over a long period of time” (Easton 1975: 446). Namely, “[s]ustained content with performance and outcomes can be converted into deep social trust” (Easton 1975). Similarly, “if discontent with perceived performance continues over a long enough time, it may gradually erode even the strongest underlying bonds of attachment” (Easton 1975: 445).

2.5 Conclusion: Legitimacy and Legitimation

In the first part of this chapter, definitions, sources and objects of legitimacy have been identified as discussed in political theory. To sum up the discussion in the first part of the chapter before moving to the international/global arena, legitimacy is first expected to trigger voluntary compliance (or obligation to comply) with the policies and rules generated by the rule-maker. The absence of legitimacy means erosion of order and stability of the political system in question. Therefore, legitimacy refers to consensual mode of governance. However, the consent of the rule-takers is always informed by a system of norms, values and beliefs. Hence, legitimacy is informed both by normative and empirical sources.

The first section of this chapter has also argued that legitimacy stems from a ‘process of legitimation’ that is shaped by both the beliefs of constituency and values and norm of appropriateness (a normative-empirical fusion). The process of legitimation is more concerned with the practices of rule-maker and rule-takers in order to explain in what ways the former generates acceptance and voluntary compliance of the latter. Finally, the overall system of governance and its specific representatives, institutions and policies constitute the objects of legitimation. These objects of legitimation can be differentiated through Easton’s typology of diffuse and specific support.

The above review of the approaches in political theory has revealed that the aspects of legitimation in political theory provide benchmarks for identifying and assessing legitimacy of the democratic state. With the invention of the modern state, ‘the right to rule’ as the basic tenet of legitimation has been determined by democratic theory and

popular will of the citizens expressed through universal suffrage. However, the legitimization of decision and rule-making authorities is not confined to pure democratic practices.

The second part of the chapter discusses the reflections of political theory in legitimacy at the international and transnational/global level. Strikingly, there is an increasing trend in this literature to discuss legitimacy for non-state actors through similar sources and objects of 'legitimation'. Nevertheless, theorisation of legitimization for non-state actors in less-regular and overlapping governance systems are far from providing a comprehensive framework and rather remain as a patchwork of various sources and objects of legitimization.

2.6 Legitimacy and Legitimation beyond the Domestic Sphere

Legitimacy has always been a salient feature of international politics. Traditionally, legitimacy has been confined to states either as rightful membership in the form of international recognition or rightful conduct as sovereign entities. In this vein, legitimization of non-state actors such as international regimes and institutions has long time been subject to the consent of the participating governments and/or their problem-solving utilities (Held and Koenig-Archibugi 2005). However, as stated by Barker (1994: 102), legitimacy is "organic and embedded in what is studied in relation to the subjects of political science- government, legislation or voting- as well as international relations- international system, international law, state or other actors". Similarly, Kaldor (2007: 187) states that "legitimate political authority does not necessarily need to mean a state; it could consist of local government or regional or international political arrangements like protectorates or transitional administrations". In fact, as governance structures beyond nation-state have proliferated, "an excellent laboratory" has been created (Risse 2004a: 1). This laboratory has allowed many scholars to draw upon concepts from political science when discussing new forms of governance beyond state "for probing a host of issues ... such as legitimacy, accountability and the participatory quality of various governance arrangements" (Risse 2004a: 1).

The reason is that rule-making by non-state actors has become a widespread feature of international relations. Growing interdependence and globalisation have generated more decision-making and implementation powers for international institutions over states. Moreover, some non-state actors such as executive bodies and transnational public and

private actors have multiple stakeholders (not necessarily and only states) that are affected by their decisions. As a result, legitimacy within increasingly complex and intermingled global governance system requires that non-state actors have to justify their policies and actions vis-à-vis various stakeholders who “must be able to evaluate the actions of decision-makers and to sanction them if their performance is poor” (Held and Koenig-Archibugi 2005: 3). Therefore, legitimacy at the international/global level requires more than rules that solely organise state behaviour. New forms of non-state governance necessitate refining the concept of legitimacy and legitimation beyond the traditional state-centric outlook.

In the following, various approaches in relation to legitimacy/legitimation of different actors and governance structures at the international, transnational or global levels are reviewed. The existing theories beyond domestic politics consensually agree on the centrality of legitimacy for state and non-state actors in international politics. It is widely accepted that a lack of legitimacy would lead to disempowerment for all actors of global governance (Clark 2007). Yet, theories of legitimation at the international level are relatively new and unsettled compared to legitimation of states vis-à-vis their citizens. Coicaud and Heiskanen (2001: 538) succinctly note that there is a ‘normative indeterminacy’ at the international level which in turn supports ‘different legitimacies’. For this reason, there is a growing body of literature approaching the idea of legitimation of state and non-state actors from different viewpoints.

2.6.1 Legitimation in International Relations

The existing approaches can be mainly divided into four categories: state-centric, cosmopolitan or post-national, legitimation through increased accountability and efficiency, and sociological-contextual. Each approach has a different understanding of legitimation process depending on the ontological assumptions about the nature of the object of legitimation and international/global governance. After reviewing these approaches, the chapter discusses their relevance within the contemporary governance mechanisms beyond state.

2.6.1.1 State-Centric Views of Legitimation

The state-centric outlook is concerned with rightful membership and rightful conduct in the international system and developed within the disciplines of International Relations (IR) and international legal theory. However, this approach has many variations. The realist variation conceptualises legitimation of states, the international system and its components first and foremost as an issue to be settled between states. This conception derives from two assumptions: the key actors of international system are states and the international system is anarchic. As a result, states are oriented towards self-help and prioritise their interests. Political calculations, bargains and power hierarchies are embedded in the practice of legitimation when determining the rules of rightful membership and rightful conduct (Clark 2005).

In this sense, legitimation is, first, related to the right to represent a territory internationally -in other words rightful membership in the community of states (Clark 2005). Those who secured the approval of other states are the legitimate members of the international society. Therefore, with a statist outlook, we can only speak of the legitimation of states conferred by states upon other states. Second, legitimation is about the international system and the rules of conduct. States –mostly the powerful ones- are central in determining international law and the mandate of international organisations through political bargaining, and thereby, have the power to determine the terms of rightful conduct at the international level. In this sense, many authors concur that legitimation provides a measure of “acceptability and justifiability of a state’s actions in the eyes of other states and their citizens” (Nossel 2007: 30).

In the realist/neo-realist variant of state-centric approach, the legitimation of power and hegemony are centralised (e.g. Luck 2002; Kagan 2004; Tucker and Henrickson 2004; Rapkin and Braaten 2009). In this sense, hegemonic legitimation requires “voluntary followership” or “the [ability of the] followers [in] internalising the values and goals of the hegemon and in their perception that the hegemon acts in general, systemic interests rather than its narrow national interests” (Rapkin 2005: 400). Recently, this approach has been revived after the US’s contested unilateralist policies and actions after 9/11 (Rapkin and Braaten 2009). For instance, Stephen Walt (2005) discusses in ‘Taming American Power’

that conformity with established procedures, positive outcomes and moral norms and consistency with ‘natural order’ are the main sources of legitimation for the US¹³.

Another type of the state-centric outlook of legitimation focuses on international law and regimes. International law is accepted as having legitimating power; and thereby states generally consent and comply with internationally-agreed rules (Chayes and Chayes 1995). For instance, Raymond (1997:214-5) argues that international norms constitute ‘quasi-authoritative guides’. Failure to comply with these guides triggers collective response and loss of prestige and credibility for states. Similarly, Guzman’s (2008) detailed account of reputation is particularly important because he argues that when *realpolitik* is not sufficient to secure compliance, reputational concerns has power to do so; and reputation provides the major reason for states to follow international law. However, this variant of state-centric outlook only conceptualises legitimation as reputation or credibility gained through compliance with international law, despite its acceptance of the autonomous impact of international law and organisations on states different from the realist approach.

Yet, another state-centric approach considers legitimation as internalised compliance with international law. More constructivist in its orientation, this approach has challenged the realist reading of interest orientation of states when explaining legitimate conduct. Many scholars discuss that voluntary compliance with international law cannot be truly explained by self-interest (i.e. reputational concerns). States have a tendency to follow international law which is usually a result of ‘compliance pull’ because norms and institutions have socialising effects on states (Koh 1987; Franck 1988; Chayes and Chayes 1995). When there is rule compliance and an ensuing stability in the international system, this is not because of ‘sovereign command’, ‘enforced coercion of the hegemon’, or ‘reputational gratification’ but because of the legitimacy factor that secures “social obedience to prescriptive-predictive norms of behaviour” that are determined by international law (Franck 1988: 546). In this variation, international law is considered legitimate because it arises from legalisation and institutionalisation of norms. International law is considered to be naturally moral, congruent with the underlying values and de-politicised by nature (Brunnée and Toope 2010). As a result, international legal

¹³ See also for similar views of legitimation of the power of US. Ikenberry, G. C. and C. A. Kupchan (1990). *The Legitimation of Hegemonic Power. World Leadership and Hegemony*. D. R. Rapkin. Boulder, Lynne Rienner Publishers: 49-69, Tucker, R. W. and D. C. Henrickson (2004). "Sources of American Legitimacy." *Foreign Affairs* 83(6): 18-32.

constraints legitimate actors by providing obligation for them to obey the legal rules and put their actions under legal scrutiny (Goldstein, Kahler et al. 2000).

There are three points of convergence between these variants of the state-centric approach towards legitimation: First, legitimation is always associated with social stability and reduction of costs of anarchy in the system, whilst crises of legitimation cause “social instability or diminished political capacity, and create need to resort to other inducements, including coercive measures, to secure compliance” (Clark 2007: 325). Second, in case of failure of compliance with international law, even powerful states can suffer from exacerbation of their reputation and a credibility crisis (Bukovansky 2002; Eckersley 2007). Third, legitimation is a dynamic notion since its principles are continuously re-settled between states. Mechanisms of legitimation are produced and reproduced through interaction of changing actors of the international system among which states remain the key actors (Clark 2005; Clark 2007).

However, the state-centric approaches to legitimation deal with the concept as a matter of reputation and credibility for states. They set forth the principles of state ‘legitimacy’ as a descriptive criteria, but remain unclear on whether states are the objects or subjects of legitimation (usually they serve as both). In fact, whilst some authors consider the independent impact of (legitimate) law and norms where compliance indirectly contributes to the legitimation of states (Katzenstein 1996; Wendt 1999), others insist that the rules of the international system are designed by states, which renders the fate of international law and norms to the will of its implementers. For example, realists have a tendency to subordinate legitimation to power¹⁴. More importantly, international regimes or organisations and international law are subordinated to the interests of states since it is assumed that “[s]tates create law to reflect their interests and subsequently comply only when significant deviations in behaviour are not required” (Thompson 2009: 307). Put differently, prescriptive sources such as international law or regimes do not have limited independent effects on states. On the other hand, when the independent effect of international law on states is acknowledged, legal scholars assume that international law is legitimate by nature and ignore that the institutionalisation and legalisation process are usually subject to politicisation by the powerful actors of the international system.

¹⁴ Here, the aim is not to deny the relationship between power and legitimacy. As acknowledged by Beetham (1991: 104), ‘the maintenance of rules, the reproduction of beliefs, the continued expression of consent ... do not take place independently of the structures of power that they legitimate. ... Power exists in one corner, as it were, and legitimacy is conferred, and legitimating ideas developed, in quite another’. However, legitimacy generates ‘societal power’, rather than masking pure coercive power.

Moreover, the fact that non-state actors have a considerable ability to initiate rules and implement certain policies is ignored by state-centric views. As ‘politics’ organised increasingly along regional and global issues, new actors become important holders of rule-making authority. Consequently, legitimisation requires new approaches beyond state-centric outlook.

2.6.1.2 Legitimation as (post-national) democracy beyond state

This approach conceptualises legitimisation at the international level by emphasising the importance of democratic procedures such as participation and representation (Held 1997; Coicaud and Heiskanen 2001). Looking at the pace of development in non-governmental areas of policy making, many contend that there is a shift from government to governance at the international level (Risse 2011). Government is a formal authority based on monopoly of coercive power, whereas governance refers to more diffuse “activities backed by shared goals that may or may not derive from legal and formally prescribed responsibilities” (Rosenau 1990: 4).

There are two main results of the expansion of non-state governance: First, regimes, organisations and law at the global level have independent capabilities to make rules, establish principles and set the agenda; and thereby, they affect masses directly. Second, legitimisation increasingly becomes a central question to understand the actions and identities of these independent decision-makers and policy-implementers (Hurrell 1995; Bohman 1999; Held and Koenig-Archibugi 2005).

However, the expansion of non-state governance has not progressed according to democratic procedures of decision-making to compensate for the loss of states’ power (Linklater 1999). Whilst the international organisations already display some characteristics of multilateral representation and constitutionalism, they do not meet the criteria for democratic legitimisation (Lopes and Casarões 2010). Most of the time, international organisations are controlled by powerful states and less-developed countries (which constitute the majority) affected by their decisions are disenfranchised. As a result, many argue that non-state governance requires democratic legitimisation by expanding application of democratic practices beyond state to international organisations and even all non-state actors of the global system (Falk 1995; Holden 2000; Held and McGrew 2002). For example, Nye (2001) argues that there is a persistent democratic deficit in international organisations since most of them remain as closed and secretive clubs; and thereby,

increasing their ‘perceived legitimacy’ is an urgent task. Similarly, Zweifel (2006: 1-2) notes that

[d]emocracy is on the rise as a core value and the dominant governance principle worldwide ... But international institutions have not necessarily followed suit; *as states transfer more and more rulemaking powers to them, they suffer from a growing crisis of legitimacy* ... The debate about the lack of democracy of international organizations will only get louder as they integrate more deeply and gain more power.

Given these premises, the students of global democracy suggest that either new institutions of decision-making should be more democratic or the procedures of rule-making should secure the consent of democratic states in a more equitable way (since they are already the legitimate members of the international system). For instance, Held (1997) states that “[i]n a world of intensifying regional and global relations, with marked overlapping ‘communities of fate’, democracy requires entrenchment in regional and global networks as well as in national and local polities. Without such a development, many of the most powerful regional and global forces will escape democratic mechanisms of accountability and legitimacy”.

As a result, some concepts akin to state democracy- such as participation, representation, decision making, accountability, constituency and jurisdiction- have entered into the discussions of democratisation of non-state actors. Some suggested “a global process of consultation and deliberation” in order to create “a legitimate framework for accountable and sustainable global governance” (Held 2004 cited in Clark 2007:202). Creation of an international public sphere is deemed necessary as the only place for conducting such a process of deliberation (Nye and Donahue 2000; Habermas and Pensky 2001). Some students of global democracy even recommend “a global peoples’ assembly” that would gradually assume law making powers (Falk and Strauss 2000) or introducing general referendums cutting across national identities in order to increase participatory quality and implementation of core cosmopolitan norms (Held 2005). Among the suggestions of post-national democracy, there is also a reform of international organisations to make them more representative of people rather than powerful states (Archibugi 2004; Patomäki and Teivainen 2004; Archibugi, Koenig-Archibugi et al. 2012) and strengthening constitutionalism through regional and sub-state actors’ participation

and global rule of law (Archibugi 2011). In short, post-national democracy approach asserts that only through more egalitarian participation and representation in international organisations, legitimisation of non-state rule makers can be ensured.

However quixotic some of the arguments might sound (such as a global parliament or global deliberative legitimisation), post-national democracy provides a normative account of how to make international and global governance more representative, democratic and accountable –ergo legitimate- for various stakeholders. Cosmopolitans offer a vital departure from the state-centric view by extending the scope of democratic legitimisation and offering alternative channels of representation and transparent decision making beyond state.

Nevertheless, this approach remains difficult to realise globally. Domestic analogy is misleading due to the obstacles to achieving democratic representation at the international and global level (Steffek 2003; Neyer 2010). The reason is two-fold: First international governance structures, i.e. IOs, and international regimes, still share some conflicting and overlapping competences with states. It remains unclear how this competing or shared competences can be organised to allow democratic representation and decision-making. In other words, who will be the object of legitimisation at the global level is puzzling for cosmopolitans. Second, the lack of global demos at the international or global level outlaws ‘identity based’ sources of legitimisation (Nye 2001). Basic democratic procedures of legitimisation through elections, legislation, and general administration cannot be expanded to the global arena (Grant and Keohane 2005). This leaves the question of who will be the constituency, i.e. individuals, groups, or citizens of states, also unsettled. Moreover, post-national democracy proposals do not provide answers to how local peculiarities and micro-governance systems can be reconciled with the desired cosmopolitan democratic structures and deliberation (Bernstein 2004a). Governance beyond the state is multi-level, and post-national democracy does not offer a solution for legitimacy deficit at regional and micro levels. For example, domestic analogy becomes unthinkable when considered in relation to the legitimisation process of international administrations and peacekeeping missions through applying democratic representation to those foreign governance systems.

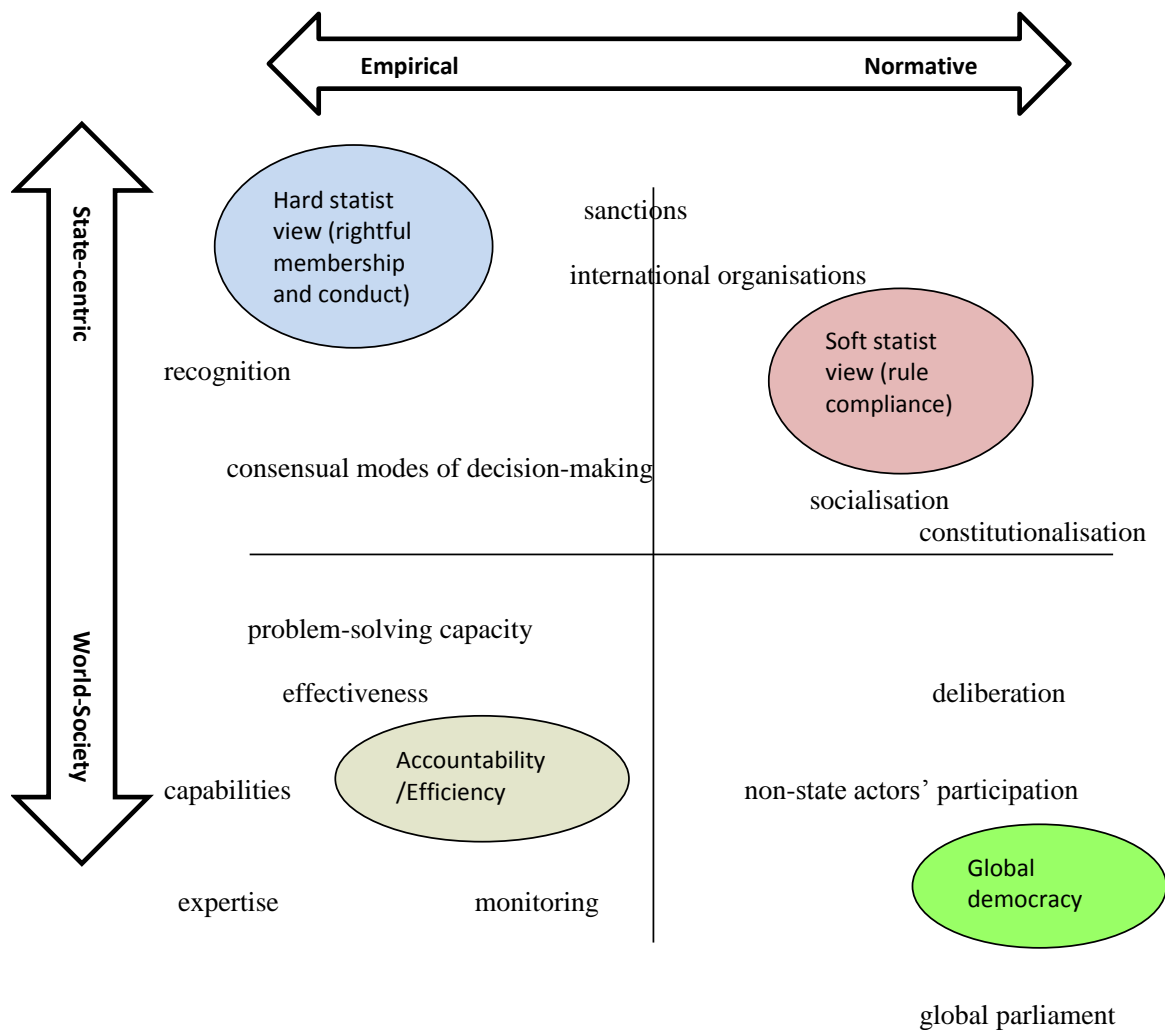
2.6.1.3 Legitimation as increased accountability and transparency

Given the difficulties of implementing post-national democracy, some authors suggest that alternative channels can facilitate the legitimisation of non-state governance. Unelected

institutions with power to issue rules require transparent decision-making and answerability even when there is not a sufficient sense of community among the stakeholders. Furthermore, accountable and transparent rule-making can be realised at both global and regional levels (Keohane and Nye 2001). Proponents of good governance at the global level suggest that improved accountability, procedural fairness and transparency in decision-making would provide 'pragmatic improvements' abating the legitimacy deficit of various non-state governance institutions in the absence of conditions that would allow cosmopolitan democracy (Woods 1999; Grant and Keohane 2005; Esty 2006). It also is suggested that nondemocratic accountability mechanisms such as ex-post monitoring would strengthen the legitimization of international organisations. The legitimization crisis of undemocratic decision-making institutions can be ameliorated through improved accountability and transparency, so that the benefits of transnational regimes and cooperation can still be reaped (Grant and Keohane 2005).

Increasing good governance through accountability and transparency would also facilitate more efficiency and problem-solving capacity in global governance; and efficiency would contribute to legitimacy. Some supporters of legitimization through efficiency talks about 'network governance' whose core lies in the problem-solving capacity and issue-specific expertise of 'highly-organised social-sub systems' (Eising and Kohler-Koch 2000: 5).

The approaches summarised above are based on different assumptions about the objects and subjects of legitimization beyond domestic sphere. These approaches usually prioritise one source of legitimization over the others (state consent, law, democracy or efficiency/accountability) and often fail to define the objects of legitimization explicitly. The following diagram summarises these approaches towards legitimization beyond domestic arena of nation-state.



Source: Author's illustration of various conceptualisations of legitimacy at the international/global level

The axes of the diagram represent the previous discussion on normative-empirical fusion and different objects of legitimation. As seen from the figure, none of those approaches reviewed above offer a comprehensive account of legitimation that combines the empirical and normative sources and different objects of legitimation. They cannot be applied to the EU conflict resolution field since they neither address the complex nature of the EU and the local in conflict zones, nor the relationship between the Union and local groups.

2.6.2 Legitimation of Global Governance: A Sociological-Contextual Approach

State-centric and cosmopolitan approaches fail to address all aspects and actors of global governance (Bernstein 2004a: 3). With the expansion of 'governance without government'

(Rosenau and Czempiel 1992), a “deeper questioning of the order and authority” has become necessary. Despite the continuous expansion and increasing attention to global governance, theorisation on the legitimacy/legitimation of decision-making actors beyond state remains weak.

Yet, the literature has lately taken a new turn in relation to legitimacy as an analytical concept to suggest remedies for the asymmetrical rule-making power of global/transnational governance. Recent articles, workshops and special issues in journals signal a novel approach towards theorisation of the concept of legitimacy and the process of legitimation beyond state. According to these debates, first, the source of the legitimacy problem must be defined correctly. Formal and informal governance mechanisms are about “creating and maintaining political order and providing common goods”, which are based on non-hierarchical steering. Contrary to formal governments, non-state governance has no top-down capacity to impose its decisions (Risse 2004b: 165). As a result, as Schaffer (2011) notes “a proper standard of legitimacy for global governance must be complex, taking into account both procedural, epistemic and substantive elements”. In this sense, the state of art developments in relation to conceptualisation of legitimacy of non-state actors highlight a striking convergence with *legitimation* as conceptualised by researchers coming from the sociology or political sociology disciplines.

Here, this new approach is dubbed as ‘sociological-contextual’, because it reflects on the sociological implications of legitimacy deficit for different groups and individuals affected by global/transnational rule-making. The approach is contextual because it considers the particularities of different global governance arrangements, rule-makers and stakeholders in different policy areas. In this sense, it offers a more comprehensive account of legitimation than the approaches reviewed previously. A sociological-contextual approach towards legitimation stems from a similar argument discussed in the previous section that new powerful actors of international arena have increasing competence which entails to global rule setting, rule implementation and provision of services (Rosenau Vaillancourt 2000; Börzel 2002; Hall and Biersteker 2002). This competence was formerly considered as a mandate of only sovereign states. Today, global/transnational governance increasingly incorporates public and private actors that have become the actual developers and reviewers of new standards and rules. As states’ capabilities to deal with highly complex problems are under pressure, new types of regulatory bodies and international organisations with supranational and transnational features increase (Zürn 2005).

Yet, a sociological-contextual approach foresees a break from the post-national democracy and increased accountability approaches for three reasons. First, we lack global demos which outlaws the extension of democratic legitimation to the global level as the cosmopolitan outlook suggests. The stakeholders of global governance institutions are no longer only states. However the addressed constituency is fragmented. Second, the vision of legitimation as merely composed of ex-post monitoring of international organisations and regimes would be insufficient given the scope and the impact of global governance arrangements on various stakeholders. The problem of legitimacy often stems from inappropriate delegation of power to various rule-makers rather than inefficiency (Bernstein 2004a). Risse (2004a: 1) states that “[t]he main problem of transnational governance concerns the lack of congruence between those who are being governed and to whom the governing bodies are accountable”. Given the rule-making, rule-implementing and service providing powers, the author (2004a: 1) contends that “the governance *problematique* beyond the nation-state is not only about complementing or temporarily replacing some functions of the modern nation-state in the provision of common goods ... [but also] about seeking functional equivalents to nation-states in terms of providing political order and common goods in the international realm”. Therefore, the legitimation of global governance institutions links questions of authority, power and obligation to obey the decisions (Bernstein 2004a).

Similarly, Zürn (2004: 260) asserts that the basis of legitimation problem is “the lack of identifiable decision-makers who are directly accountable for wrong decisions made at the international level”. As a result, there should be some *a priori* channels of legitimation, especially regarding participation. Finally, legitimation of global governance should go beyond compliance with legitimate international law as offered by the advocates of legalistic approach to legitimation. According to Bernstein (2004a: 4), “increasing enforceability of rules and acceptance of their broader reach” raises “visible tensions between authority and legitimacy... The question at stake is whether the apparent delegation of rule, especially when backed by resources that confer power, is legitimate”.

Once the source of legitimacy deficit is defined, a sociological-contextual approach values the particularities of the policy-area, the impact and power of different bodies of decision-making, and the relevant addressees affected by the decision/rules. The authors who advocate a sociological-contextual legitimation argue that it is important to inspect the context, i.e. the issue-area and the scope of rule-making at the global/transnational level, in order to identify what is in need of legitimation. Global governance institutions

provide a vibrant range of binding and enforceable rules in relation to many issues such as human rights, humanitarian intervention, economic institutions, development, international trade and finance, post-conflict international administrations and more (e.g. Delbrück 2003; Woods 2003; Chopra and Hohe 2004; Joerges 2004; van der Berghe 2006; Eckersley 2007; Hurd 2007; Morrisa and Wheeler 2007; Seabrooke 2007; Steffek and Ferretti 2009). In general, Buchanan and Keohane (2006) note that non-state actors of global governance often impose 'intrusive rules' and 'publicly attach significant consequences to compliance or failure to comply with them' (also Zürn 2004; Bernstein 2004a). However, the power of different rule-making bodies to initiate and implement rules varies depending on the issue area as well as shared norms and acceptable rules of conduct.

Also, the notion of constituency is redefined in a sociological-contextual approach with the expansion in the competences and authority of global governance institutions. A sociological-contextual approach also seeks a more constituency-oriented account of legitimization for non-state decision-makers of international/global system. "The essence of [governance systems beyond state] is that they derive their legitimacy from the voluntary and conditional participation of individuals who revoke their consent at any time" (Rosenau 2003: 308). Supporters of a sociological-contextual approach argue that the stakeholder groups form "a pluralistic social realm of a variety of sometimes overlapping or contending (often sectoral) publics engaged in transnational dialogue" (Steffek 2005: 197). Cross-cutting groups and communities across the world are the main constituency in legitimization of global governance institutions. In this sense, the "social constituency of legitimization" (Seabrooke 2007) involve many groups such as individuals, private actors, civil society and international organisations, which form a dense network of relations among themselves (Steffek 2007).

Therefore, not only is it crucial to identify the area of governance, the scope and powers of rule-making and implementation by the specific bodies in order to identify legitimization mechanisms according to the context, but also, the communities and groups that are addressed and affected by the decisions of non-state governance bodies. One of the persistent problems of transnational governance is the lack of what Keohane calls external accountability. External accountability refers to accountability to "people or groups outside the acting entity who are nevertheless affected by it" (Keohane 2003). In other words, 'legitimacy for whom?' becomes one of the central themes of legitimization concerns at global/transnational level according to a sociological-contextual approach (Cerutti 2011).

A sociological-contextual approach to legitimation prioritises the society in which the rule, institution or actor operates (Bernstein 2004a). Bernstein and Cashore (2007: 348) argue that non-state global governance arrangements ought to “derive authority directly from interested audiences, including those they seek to regulate”. Therefore, “legitimacy in global governance is not conducive to formulaic lists of requirements. It is highly contextual, based on historical understandings of legitimacy and the shared norms of the particular community granting authority. Institutional mechanisms designed to respond to legitimacy demands must be appropriate to social and community context” (Bernstein 2004a: 18).

Nevertheless, “establishing the boundaries of the relevant communities is an empirical and interpretive endeavour, and unlikely to be without controversy” (Bernstein 2011: 33). Hence, the relevant groups of stakeholders should also be meticulously identified and analysed for their support. As global governance arrangements assume more role and power in rule making, constituency or the groups who are subject to these decisions enlarge and diversify. In short, legitimation of global governance actors is about understanding the power of rule-making exercised by increasingly multi-dimensional and irregular actors beyond state.

After rejecting what is offered by statist, legal, cosmopolitan and technocratic approaches, a sociological-contextual approach offers a broad framework of legitimation which considers the evaluations of the affected audience in light of fundamental values and principles in the specific policy area in question (Zürn 2004; Brassett and Tsingou 2011). A sociological-contextual approach acknowledges that the conformity of the rule-making bodies with both normative prescriptions and the good governance model in the minds of relevant stakeholders constitute the main sources of legitimacy. Bernstein (2011: 19) argues that “legitimacy results from an interaction of the community of actors affected by the regulatory institution, i.e. the public who grant legitimacy, with broader institutionalised norms- or social structure- that prevail in the relevant issue area”. In this sense, legitimation beyond state relies on intersubjective beliefs about the appropriateness of the decision-makers, procedures and implementation outcomes.

In a sociological-contextual approach, relations between rule-makers and their constituencies shape along shared normative principles, shared values and goals. Within this social structure, already institutionalized norms “define appropriate and inappropriate courses of action, legitimate and de-legitimate institutional forms, and create a context in which cost-benefit analysis occurs” (Bernstein 2011: 28). The legitimation of global

governance “can thus be seen as the chance for a powerful institution and for its policies to be justified on the basis of fundamental values, goals and models of *good governance*, which the people have in mind beyond the usual business of everyday life” (Cerutti 2011: 122). In this sense, a sociological-contextual approach more resembles legitimation in political theory that takes normative and empirical sources and different components of rule-makers into account. In Bernstein’s words:

[R]ules that make up a social structure of governance define authority relationships and empower actors and institutions that participate in those relationships and construct governing institutions through their interactions. These practices in turn become institutionalized – or accepted – as “appropriate” by the community in an ongoing process of legitimization and delegitimization. Thus, there is a constant interaction of rules with the social purposes and goals of relevant audiences. But unlike in a principled conception, the question of legitimacy in many sociological accounts, following Weber, bears no particular relationship to truth or right. Rather, the question is interpretive: what basis of legitimacy holds sway in a particular society or how does a prevailing political order generate an intersubjective belief in its legitimacy? ... It depends only on the historically contingent values, goals, and practices of the relevant society. In terms of global governance, different audiences of states, global civil society, or marketplace actors may share different criteria or weightings of “input” versus “output” legitimacy (Bernstein 2004a: 14-5)

To sum up, a sociological-contextual approach offers rather complex responses for the complex problem of legitimation for global/transnational governance institutions compared to the ones provided by the previous approaches reviewed above. More clearly, a sociological-contextual approach:

- identifies the problem of legitimation more broadly compared to statist, legal and post-national democracy approaches. A sociological-contextual approach is concerned with the current lack of identifiable decision/rule-makers as formal or informal, public or private bodies and their expanding power and impact on societies, groups and individuals.
- promotes a meticulous definition of the objects of legitimation (institutions, actors, policies that seek legitimation) and the constituency or addressees (stakeholders)

for whom the agents of global governance set the rules and services in different areas of rule-making on a case by case basis,

- considers empowering the affected groups and other stakeholders through alternative participatory channels at the stage of decision-making,
- thereby, approximates to the normative-empirical outlook of legitimation in political theory by valuing both the constituency's evaluations and contextual norms and rules in the subject policy area as one pair of the legitimation process.

After discussing the main features of what is called a sociological-contextual approach here, the next section turns to analyse the existing literature on sources and mechanisms of the legitimation for complex non-state governance systems and institutions.

2.6.2.1 Principle Sources of Legitimation in Sociological-Contextual Approach

The supporters of a sociological-contextual outlook contend that there is need to consider substantial and normative qualities such as transparency, participatory qualities and accountability in order to assess the legitimation of a non-state entity (Held and Koenig-Archibugi 2005; Scholte 2011). Besides normative criteria, a sociological-contextual approach takes societal actors across states' borders into consideration as the actual constituency that endow consent and support to global/transnational rule-making. Put differently, socially-backed institutional mechanisms and actors are considered crucial in order to legitimate actions and decisions of non-state decision-makers of global/international governance (Zürn 2005). Hence, the process legitimation relies on the interests, ideals, expectations and preferences of all actors –as decision-makers or the ultimate addressees- into consideration.

Nevertheless, one should not consider a sociological-contextual outlook as a single coherent framework to apply when analysing the legitimation process of a given actor. First, there is “the problem of normative unclarity ... regarding how global governance institutions ought to regard those people most affected by their activities” (Hlavac 2008: 203). Moreover, the relevant constituency is not easy to determine. Cerutti notes that “[t]he ‘masters of legitimacy’, on whose judgement the legitimation of global governance depends’ remain ‘unstable’ and ‘not easily recognisable” (Cerutti 2011: 124). In this sense, it is hardly possible to talk about a coherent framework of legitimation for complex and diverse governance systems of global/transnational governance. As a result, a number of legitimation mechanisms or sources have been offered, such as efficient problem solving

(Keohane 2011), legality of actions (Scholte 2011), minimum moral acceptability (Buchanan and Keohane 2006), transparent decision making, accountability and greater participation of stakeholder groups (Nanz and Steffek 2004; Bernstein and Cashore 2007; Scholte 2008; Steffek and Ferretti 2009).

First, increased transparency and accountability for global governance institutions is acknowledged as one of the main ways of legitimation for a number of governance arrangements beyond state (Héritier 2003; Buchanan and Keohane 2006; Keohane 2011). However, the important question for a sociological-contextual approach is “accountability to *whom*”. For a sociological/contextual approach, transparency and accountability of institutions to their member states –even if they are democratic states- is not sufficient. Pluralistic accountability remains at the centre of accountability concerns for this approach. Pluralistic understanding of accountability refers to accountability of actors, processes and outcomes (Benner, Reinicke et al. 2005). In pluralistic accountability, various forms of private and public networks are made subject to different accountability mechanisms such as public, reputational, fiscal, legal and market accountability. It is not only the processes of decision-making but also specific decision-making actors and outcomes that are subject to different accountability tests (Benner, Reinicke et al. 2005).

Second, the extension of the scope of accountability to pluralistic accountability raises questions about participation. Only participation can allow the affected groups’ claims to freely disseminate and create support, and thereby contribute to accountability at all levels (van der Berghe 2006; Seabrooke 2007). In this sense, in a sociological-contextual approach, multi-stakeholder participation is another source of legitimation. According to Keohane (2011: 101), in order to ensure participation of multiple stakeholders, “institutions need to be open to all peoples who are willing to participate in attaining the goals established by the institution. ... Inclusiveness [at the international and global levels] does not imply equality of voice. ... But peoples should not be arbitrarily excluded from participation in discussions about global governance”.

In this sense, some authors suggest that incorporation of private stakeholders, NGOs and transnational civil society into the decision- or rule-making processes would increase multi-stakeholder participation, ergo accountability and legitimacy (Wolf 2001; Woods 2006; Scholte 2007). Other authors question the accountability of these private bodies themselves and remain unconvinced that private bodies or NGOs participation besides national representatives would solve the problem of legitimacy at the global level (Ottaway 2001; Steffek and Ferretti 2009).

As a result, some authors argue that participation is necessary in order to generate shared arguments and norms, given that without shared normative framework between rule-making actors and their addressees, we cannot conceive legitimacy. For instance, Steffek (2007: 186-7) argues that legitimization of global governance ‘is ultimately grounded in and conditional upon the persistence of transnational societal consensus’. Some authors contend that in the absence of democratic representation and voting, arguing and communication is central to participation into global/transnational decision-making (Risse 2004a) because a wide ‘range of viewpoints and scope of deliberation’ enriches the shared norms between rule-makers and rule-takers (Mügge 2011).

In order to generate such a consensus, communication and arguing are crucial processes during the rule setting and implementation and the compliance stages (Risse 2004b). Arguing and deliberation involves “negotiating over meanings of norms and their applicability in a given social context” (Risse 2004b). Arguing has a potential to incorporate all relevant stakeholders into the legitimization process, because moral reasons, ideational sources and knowledge are prioritised in arguing. Only communication between “a variety of social actors (e.g. government officials from different national communities, scientific experts, NGOs etc.)” would ensure input from the addressees of rule-making authorities beyond state (Nanz and Steffek 2004: 315). Similarly, Etzioni (2011: 106) defines the sources of legitimacy through a normative communitarian point of view which derive from communal deliberations. Therefore, communication or deliberation is a remedy for the lack of external accountability in transnational governance (i.e. lack of accountability to “people or groups outside the acting entity who are nevertheless affected by it”) (Risse 2004a: 7) in order to treat the legitimacy gap that stems from the expansion of global decision-makers without checks and balances.

As arguing becomes more widespread and inclusive, actors with lesser material sources are empowered to convey their demands and expectations throughout the legitimization process (Risse 2004b). Arguing over norms and legal rules would engender reasoned consensus on the application of them in a specific setting (Risse 2004b: 309). In turn, arguing and persuasion would increase responsiveness to the addressees’ claims and demands and increase participation. Finally, reasoned consensus would encourage compliance on the side of the addressees or rule-takers. In short, voluntary rule compliance is not more than a result of arguing and persuasion.

A sociological-contextual approach foresees that legitimization becomes a communal process based on judgements and ‘good justifications’ through arguing and communication

(Steffek 2000: 4). In this sense, communication solves some qualitative problems of the cosmopolitan theory by offering a plausible form of constituency participation without strictly following the statist outlook, and also “without losing track of the democratic element of legitimacy” (Higgott and Erman 2010: 451).

According to a sociological-contextual approach, legitimation through communication and arguing “does not require heroic assumptions that “ideal” situations prevail, only that participants of different rank or capabilities adhere to conditions that make deliberations “argumentative” rather than strategic” (Bernstein 2004a: 9). Contrarily, it requires ‘giving reasons’ by all participants (rule-makers and addressees) in order to reach a common decision. Throughout the process of arguing, alternative decisions are “ruled out for good reasons” (Steffek 2000).

Usually, a sociological-contextual approach gives certain actors such as civil society a special role in communication since those actors would “inject values and voice that bolster the moral and democratic legitimacy of global governance” (Scholte 2007: 1). As Steffek (2005) notes, the role of the civil society is to monitor rule-makers, bring societal actors’ concerns to the picture and even empower marginalised groups’ demands. Therefore, for a sociological-contextual approach, arguing or communicating between multiple stakeholders and rule-makers becomes the main source of legitimation which resolves the complex problem of defining the relevant constituency as well as ensuring participation and accountability.

Third, for a sociological-contextual approach, besides participation through argumentation and reasoned consensus, better efficiency and quality in political regulation and problem-solving capacity of various global/transnational governance institutions also constitute a vital part of the legitimation process. Problem-solving refers to effectiveness in rule-implementation and the ability to meet the demands and expectations of affected groups. Put differently, it is legitimation based on performance or output. Since global governance institutions command well-informed expert communities, performance-based legitimation is usually considered the most likely source of legitimation (Nanz and Steffek 2004: 319). In this sense, some authors claim that it might even compensate for the lack of participatory input in transnational governance (Risse 2004a).

However, effective and efficient decision-making or legitimation on performance also has important normative implications in a sociological-contextual outlook (Higgott and Erman 2010). As stated by Cerutti “performance-based legitimacy stands for the acknowledgement that the ideal or intentional conformity of an institution to a model of

good governance”. Performance represents a “substantive condition” for legitimation “that the institution or regime must give proof of its ability to produce basic goods, such as security, minimum wellbeing and legality” (Cerutti 2011: 125). Therefore, legitimation stemming from performance is closely linked to normative standards agreed between rule-makers and the constituency. In this sense, Buchanan and Keohane (2006) advocate assessing performance-based legitimacy through ‘comparative benefit’. Comparative benefit does not evaluate the current performance of an institution against the optimal criteria of efficiency in problem-solving but in relation to other institutions. Comparative benefit is based on a comparative evaluation of the performance of an institution. An institution can gain support and credibility through performance by producing benefits that other institutions cannot attain or attain only at a higher cost. Therefore, ‘[t]he legitimacy of an institution is called into question if there is an institutional alternative, providing greater benefits, that is feasible, accessible without excessive transaction costs and meets the minimal moral acceptability criterion’ (Keohane 2011: 103).

To sum up, a sociological-contextual approach promotes three paths for gaining support and increasing compliance of the addressed audience for global/transnational decision-making bodies, institutions and actors: (i) pluralistic accountability which necessitates accountability to multiple stakeholders and accountability at all phases of decision-making and implementing, (ii) participation of various stakeholders or addressees through communication and arguing, (iii) efficient outcomes and comparative benefit of the performance. In this sense, a sociological-contextual approach is keen to develop a more comprehensive theory of legitimation for complex governance arrangements at the global/transnational level.

However, it is difficult to point to a single framework of legitimation, as the review of the different sources and paths of legitimation demonstrates in this section. A sociological-contextual approach rather represents an outlook which combines the empirical and normative sources of legitimation by paying attention to the context of issue-area and decision-making competence as well as societal sources of participation, persuasion and support. Yet, contrary to cosmopolitan understanding of extending democracy beyond state, a sociological-contextual approach to legitimation of international organisations, global or transnational rule-making bodies suggests a more elaborated argument to address the legitimacy gap of divergent actors, bodies and decision-makers of non-state governance. The advocates of this approach contends that democracy “pre-judges what legitimacy requires” (Bernstein 2011: 17).

At this point, it is important to note that the legitimization of global governance institutions, including the EU as an actor dealing with the governance of post-conflict societies, pushes the boundaries of the democratic legitimization theory as applies to the domestic level thanks to the differences between the domestic sphere and global governance (Srivastava 2007). According to Bernstein (2011: 19) “what constitutes legitimacy [in intergovernmental and non-state global governance] results from an interaction of the community of actors affected by the regulatory institution, i.e., the public who grant legitimacy, with broader institutionalized norms – or social structure – that prevail in the relevant issue area”. In a sociological-contextual approach, pragmatic viability and re-calibration of democratic legitimization are necessary when we discuss and understand the legitimization sources and processes for non-state actors. Hence, the assessment of legitimization beyond state must be based on “an empirical evaluation of the extent to which ideal democratic participation can best be approximated under the constraints imposed by the ‘second-best’ world of the specific case in question” (Moravcsik 2005: 223). As we have seen in the above discussion, a sociological-contextual approach to mechanisms and sources of legitimization invites some innovative and less direct channels of participation such as deliberation and pluralistic accountability and performance efficiency based on the expectations and demands of stakeholders. This is crucial for not only less direct and more informal global governance bodies, but also for the EU when it deals with conflict resolution as a form of external governance.

2.6.2.2 Properties of Legitimation for Non-state Actors

Legitimacy is not visible as a source of power and authority; therefore, its properties cannot be directly measured, especially when democratic legitimization is out of practice, as argued before. On the other hand, similar to political theory, in a sociological-contextual approach, legitimization always points to a process that ensures rule-following by the addressed groups free from “purely self-interested or instrumental behaviour on the one hand, and from straightforward imposed or coerced rule, on the other” (Hurrell 2005: 16). As Zelditch (2001: 5, emphasis added) argues that

legitimacy is an ubiquitous phenomenon but *legitimation is always auxiliary to some other processes*. Its dependent variable is always the extent to which it *increases the acceptance of, or reduces the resistance to, something else*, but what

is accepted or resisted always seems to be observable only in the dependent variable of other processes. ... It affects the dependent variable of many other processes, such as the probability of a stay response or the pressure to reallocate rewards, but has no effect measurable apart from them. *It is a fundamental social process, but only because it is auxiliary to so many other social processes.*

Put different, Zelditch argues that the process of legitimation gives important clues about the nature, the character and the authority of the decision- or rule-making actors. First, legitimation refers to the construction and maintenance of the power relationship between the rule- or decision-making actors, and the communities or groups affected by the rules, and decisions. As discussed previously, the sociological accounts consider legitimation as a process that confers credibility to organisations, institutions, decision-makers. The structures and processes in various global governance institutions might not allow democratic legitimation such as voting and representation; but, legitimation “is embedded in social systems that provide a basis of appropriateness, or that make the purposes, goals or rationale of the organisation understandable to the *relevant audience* in the society” (Bernstein 2004a: 4). In other words, “legitimacy is rooted in a society or community in which the rule or institution operates” (Bernstein 2011: 27).

The advantage of a sociological-contextual approach to legitimation is “its ability to explain the power of legitimacy to affect behaviours and social practices” (Bernstein 2004a: 17). Therefore, understanding legitimation process and challenges to the power of the decision-making actors would broaden our understanding of the community basis –or lack thereof- of the authority of the rule-maker in question. A lack of consensus and consistency between rule-makers and the addressees (i.e. mutually accepted power relationship) generates reasons for challenge on the side of the addressees against either the rules or decisions themselves or the actors that initiate and implement them.

Second, understanding the legitimation process is also important to reveal the demands for continuity or change from the constituency’s point of view, i.e. groups that are affected by the decisions of global governance arrangements (Keohane 2011). In this sense, the process of legitimation becomes empowering for the affected groups (rule-takers or stakeholders) in the existing power relationship. The legitimation process embodies forms of resistance to the unfair, unaccountable, immoral or inefficient rule-making (Zürn 2004). In this sense, legitimation within the increasing scope and authority of global decision making offers a novel approach not only for identifying what is ‘objectable’ about

those institutions but also provides critical thinking about future reform acting as a ‘Trojan horse’ inside the complex global governance structures, institutions or decision-making bodies of various types (Brassett and Tsingou 2011: 13). Some authors even contend that when we understand various processes of legitimation of global governance through including multiple stakeholders’ claims, challenges, attitudes, ‘resistance to arbitrary inequalities’ in global governance decision- and rule-making would become ‘counter-hegemonic’ (Scholte 2011: 119).

Having reviewed the recent debates in the broad legitimacy/legitimation literature for non-state actors and global governance, the next section discusses the reflections of a sociological-contextual legitimation approach in the conflict resolution literature.

2.6.3 Legitimation and Conflict Resolution

There is an ambiguity in terms of shared norms and rules of external conflict resolution initiatives and conflict resolvers. On the one hand, it is almost consensually accepted that any actor who sets policies and acts at the international level is unavoidably bounded with the rules of conduct of the world society which are built upon historically evolved norms and principles. Neither states nor other type of actors are able to simply disembody themselves from these norms and principles without risking criticism from the international community (Hurd 2007: 196). On the other hand, only some of these norms have been specified and formalised as codified international law while others have developed as soft or customary principles. The codified rules are strict but “form only part of a much broader set of intersubjective understandings and conceptual structures that shape international relations”, whereas principles are more dynamic in nature and ‘have real political impact’ since they are shaped by structural shifts and globalisation (Hurrell 1995: 53). This difference between established rules and developing principles of conduct is most visible in the field of conflict resolution, peacekeeping and humanitarian intervention.

Namely, rules of conduct in the international system are traditionally based on state sovereignty. This is a well-established legal principle codified in the UN Charter that determines the legitimate conduct (i.e. non-intervention) for state and non-state actors (Charlesworth and Coicaud 2010). However, wide-scale conflicts and ensuing human suffering within the borders of states have triggered significant doubts about the validity of the main international legal prescription of non-intervention. The new principle of

responsibility to protect is often accepted as a 'legitimate' principle, and as even a moral duty when large human casualties occur within the borders of a state (Chandler 2010a). Responsibility to protect prioritises human security and well-being over state sovereignty in cases of intra-state conflict. With this new understanding, the main peremptory principle of legitimate conduct has been under re-definition to allow exceptions to non-intervention. Increasingly, state sovereignty is considered incompetent and contested since responsibility to protect often contradicts with the absolute rights of a government on the territory of the country in question (Summers 2010).

As a result, when 'international involvement in internal conflicts' is concerned "no clear and coherent answer presents themselves to the question at the core of this involvement, which concern, in one way or another, the issue of its legitimacy" (Coicaud and Heiskanen 2001: 256). The 'normative indeterminacy' (Coicaud 2001) in terms of the use of force against a state and long term conflict resolution within a state by external parties turn the function of international law into ambiguous guidelines given the contestation between established rules of conduct and emerging principles. More clearly, peremptory principles and rules and emerging norms sometimes clash and point the actors in different directions. It leaves third party conflict resolvers with more discretion in terms of interpretation and the implementation of the existing rules and principles, especially regarding the use of force and administration of foreign territories by external parties. Non-state actors can claim legitimacy on various grounds by cherry-picking international law and new practices¹⁵.

Therefore, UN authorisation is no longer considered as a sufficient source of legitimisation, especially since, international administrations and humanitarian interventions authorised by the UN are perceived as 'tools of *realpolitik*' outside the Western world (Ayooob 2004). Hence, legitimisation of the use of force under certain circumstances and the following conflict resolution process -in different forms such as, setting up long term administrations or applying strict conditionality for social and political transformation- increasingly require new sources more than legal authorisation by the UN.

While the ambiguity over normative sources of legitimisation remains intact, conflict resolution tasks carried out by 'internationals' or 'external parties' –such as democratisation, promotion of human and minority rights, rule of law, and economic reform in conflict zones- are expanding and becoming a part of complex global

¹⁵ Actors can claim that their actions are legitimate in accordance with strict interpretation of the existing law, humanitarian principles or self-defence.

governance (Richmond 2010). For instance, Stahn (2007: 3) notes that the authority enjoyed by international transitional administrations, rule-of-law missions and long-term state building practices “eclipse the state as the exclusive holder of the public authority” through enacting rules which are directly applicable in conflict territories. Usually, conflict resolution initiatives are established through an elite-level agreement between local leadership and third parties. In case of transitory administrations, consultation with local leadership might not be even possible. In such cases, foreign involvement is usually endowed with law-making powers in order to promote local democratic structures, human rights standards, political participation at local and state level and economic development. In short, conflict resolution practices require “extended international involvement ... that goes beyond traditional peacekeeping and peacebuilding mandates and is directed at constructing or reconstructing institutions of governance capable of providing citizens with physical and economic security” (Chesterman 2004: 5).

Nevertheless, such practices are not usually subject to democratic choice of rule-takers, i.e. communities, political leaders and other actors in post-conflict societies. These recent developments in the conflict resolution practice raise important questions of legitimacy for external conflict resolvers. The legitimacy of conflict resolution actions and conflict resolvers cannot be confined to legitimation in the eye of the international community through either UN authorisation or some normative, ideational arguments. According to Stahn (2007), each mission is “a pioneering experiment of its own”; hence, initial UN authorisation is necessary but not sufficient for legitimating external conflict resolution practices. The questions of legitimacy/legitimation are more and more related to the third parties as rule/decision-makers in conflict zones without democratic power. In this sense, the extension of legitimacy requirement for the rule of law missions and other state-building practices through constituency and context-oriented outlook is unavoidable.

As a result, some students of conflict resolution discuss that external conflict resolvers are subject to local checks and social acceptance, similar to the agents of global/international governance. For instance, Wilde criticises international administrations by arguing that they fail to develop a genuine legitimacy due to their progressivist and exceptionalist narrative they adopt for their mandates (Wilde 2004). In practice, the ultimate and binding powers of unelected international administrations are beyond judiciary review and create discontent among local populations (Beauvais 2001; Chesterman 2004). Studies on the legitimation of rule of law- and state-building missions and transitional administrations promote a closer look into the actual implementation of

each mission on the ground and the contextual interactions of conflict resolvers with local recipients. Bellamy and Williams (2005: 174) propose three sources of legitimate actions in peacekeeping: deontological source suggests conformity of the behaviour of actors with the moral rules, dialogical source requires decisions to be reached “on the basis of a genuine consensus (reached through exhaustive dialogue) among all the parties likely to be affected by the proposed course of action”, and finally a combination of legal and moral reference points that are accepted by the members of the world society. In this sense, legitimacy is sourced from the common morality of world society and the ‘social fact built on the consent’ of relevant groups affected by the decisions (Bellamy and Williams 2005: 174).

Gow and Dandeker analyses the legitimation problem of peace operations. According to the authors “legitimation [of peace operations] is a complex process which refers to the dynamics of the social compact between those in positions of authority and those subject to that authority” (Gow and Dandeker 1995: 173) . Legitimation should embrace three sources: principles and values of the social compact, performance and support. The success of a peace operation is based on a preserved balance between these sources. Similarly, Mersiades (Mersiades 2005) studies how the legitimacy of peacekeeping forces in the eyes of the local actors affects the success of the peace missions. The author identifies the basis of legitimacy as having social contracts with various local actors and fulfilling the commitments and obligations of these contracts which would generate consent and active support for the external actors of peacekeeping/conflict resolution. Through the examples of Cambodia and Somalia, the author demonstrates that the peacekeeping forces generate legitimacy and thereby, active support only when the social contract respects the local traditions, needs and priorities.

Other authors emphasise the centrality of local communities as the addressees and the ultimate subjects of the legitimation process more directly. For instance, Hurwitz (2005) and Chesterman (2007) suggest consultation, participation, and accountability as the essential elements of legitimacy for third party conflict resolution. Chopra and Hohe (2004) argue that a genuine social participation requires advanced international resources and planning. The authors contend that holistic integration of local population into the externally-promoted political and social system is the only way to generate consent for various international engagements in conflict resolution. The aim of local participation is formalisation and reinforcement of local administrations and other local groups such as non-state actors. Subsequently, consent would “foster a degree of downward

accountability and legitimacy that has so far been absent” from conflict resolution incentives (Chopra and Hohe 2004: 291).

In relation to the acute power and authority problems of the international transitory administrations, some authors suggest that far reaching economic and political reforms should not be imposed on domestic actors and the international bodies should take the domestic actors’ views and wishes into account in order to generate credibility (Stahn 2007). Harland (2004) notes that international administrations would never generate full legitimation since their actions would be always perceived as imposed externally by the local populations. Yet, he acknowledges “an improved capacity for effective administration will, if nothing else, slow the erosion of goodwill that has weakened international administrations in the past” (Harland 2004: 19).

Looking at the increasing attention paid to the legitimacy of external humanitarian intervention and conflict resolution actors and the centrality of local audiences, we can contend that the concept of legitimacy/legitimation is now well-established in the conflict resolution literature. Nevertheless, the confusion and lack of a general analytical framework of legitimation in global governance literature is also valid for the conflict resolution field. In this sense, the conflict resolution literature often promotes a popular concept of local ownership (as a practical way of bringing local actors into the picture) which is considered as an opposite to top-down measures. Yet, local ownership remains an ambiguous term to measure; and there is no commonly-agreed definition of local ownership (Reich 2006; Donais 2009). ‘Participation’, ‘local voice’, ‘civil society development’, ‘consultation’, ‘accountability’, ‘responsiveness’ are all accepted as the necessary measures for ensuring local ownership, ergo legitimacy for conflict resolvers (Chesterman 2004; Hurwitz 2005).

Although there is no clear framework of legitimation in the existing literature to assess the legitimacy of conflict resolvers, such as the EU, the conflict resolution literature as briefly reviewed above acknowledges the necessity of gaining support from the local stakeholders through various legitimation mechanisms and sources, independent of the existence of UN authorisation. The current debate is particularly important in identifying the centrality of local actors in granting and maintaining meaning, power and authority for the external conflict resolvers and their practices. We can contend that this debate invites a more systematic discussion for the analysis of legitimation process between conflict resolvers and local actors based on a sociological-contextual approach.

2.7 Conclusion: Towards a Comprehensive Framework of Legitimacy

This chapter has opened up with a discussion on legitimacy in political theory in order to understand the origins of the sources and objects of the much referred concept within domestic policy-making. Legitimacy is a concept strongly related to the right to issue rules, and ability to implement them in political theory. This right is embedded in the power of the constituency in conferring support for the rule maker bodies. When the constituency grants support to regime and its rule-making components, the relationship between them point to a dynamic process of 'legitimation'. Therefore, legitimacy should be rather conceptualised through a two-way street: on the one hand the legitimacy-seeking actors build their justifications referring to institutionalised norms, laws or other sources of authority; however, these justifications remain unconfirmed until they become subject to constituency's evaluations. The constituency's evaluations are not only based on utility calculations (i.e. outcome of policies); but also, on normative evaluations of the legitimacy seeking actors' right to issue rules, the quality of the process of implementation, and finally the overall performance. Therefore, legitimation process incorporates moral and observable qualities at the same time, and thereby, offers a more handy analytical perspective for empirical research.

The chapter has also discussed that the rule-making authorities cannot be approached as single uniform bodies. Constituency or rule-takers tend to differentiate between the components or representatives of the authority in question. Discussed under the concept of diffuse and specific support, the chapter has showed that the objects of legitimation are both an overall system of governance or a regime and its temporary representatives, office-holders or institutions. Whilst diffuse support is provided for the system or the governance authority in its entirety (including the norms and ideas that the system is built upon), specific support refers to a temporary and more adjustable support for the components of the system.

The second part of the chapter has turned to assess various approaches of legitimation beyond domestic politics and especially for non-state actors. The purpose was to identify the available approaches in order to assess their suitability for adopting a framework of analysis for EU conflict resolution. It has been demonstrated that 'legitimacy's salience' beyond domestic politics of a state is firmly recognized as 'a function of every organisation's 'publicness' and 'power' (Koppell 2005). However, the ethical and philosophical foundations of legitimation are founded on state and there are far

fewer notions of how and why non-state actors acting at the global area are legitimated (Barnett and Finnemore 2004: 166).

However, recently, there is an increasing attention paid to the legitimacy and legitimation such as origin and sources of non-state actors' power as the reach and impact of global governance broadens (D'Aspremont 2007). A sociological-contextual approach as promoted by some global governance students prioritises participation of the actual constituency –states (but not only most powerful states), civil society, communities, transnational groups and even individuals- as a vital component of legitimation. In this sense, legitimation sources also break with the mainstream legalistic approach which considers legitimacy as compliance with international law or UN authorisation. As a result, the legitimacy for various non-state actors means that “institutional agents are morally justified in making rules and attempting to secure compliance with them and that people subject to those rules have moral, content-independent reasons to follow them and/or to not interfere with others” (Buchanan and Keohane 2006: 411).

The literature discusses multifarious aspects of global governance institutions and the reasons of lack of legitimacy. There are three main mechanisms to look at the legitimation process: through increased transparency and accountability in decision-making and the implementation process, through guaranteed inclusion of the affected groups' in processes of decision-making and implementation, and through an efficient problem-solving and output delivery capacity. In this sense, the chapter has demonstrated that the definition and sources of legitimation beyond the state does not represent a total break from the domestic sphere, despite some crucial differences in terms the nature of the authority and constituency. Nevertheless, the existing studies tend to promote one mechanism for a closer analysis of legitimation over the others.

The strength of a sociological-contextual approach lays in its explanatory power of contextualised structures and norms in particular cases. While there is a need to address the urgent problem of the legitimacy of global/transnational governance, the proponents of a sociological-contextual approach would argue that it is not desirable to settle the rules of the game once for all (Hlavac 2008). As succinctly asserted by Bernstein (2004a: 18), “[l]egitimacy in global governance is not conducive to formulaic lists of requirements. It is highly contextual, based on historical understandings of legitimacy and the shared norms of the particular community granting authority”. “Legitimacy requirements evolve over time, in the interaction of affected communities and social structures”; therefore, social norms, legal rules and values accepted within the framework of specific policy area are

subject to change (Bernstein 2011). Given the lack of normative clarity at global/transnational level and diversity of the scope of global institutions' activities, the task is to contextualise the criteria and localise the object of study in order to analyse and understand the process of legitimation. Any framework of legitimation beyond state should analyse the dynamic nature of interactions between the relevant constituency and authority in question.

The emphasis on specific social structures and actors "militates against easy generalisations" for a sociological-contextual framework of legitimation (Bernstein 2011: 41). Since there is a lack of normative consensus, contextual frameworks of legitimation are defined within the issue area of specific governance arrangement which makes each framework limited in its scope. Moreover, whilst a sociological approach pays attention to contextual rules and social structures of the relevant community of addressees, it sometimes disregards legitimated unequal or unfair access to decision-making and other practices (Bernstein 2004a). Defining the stakeholders or addressees is also a demanding task, since some institutions possess overlapping or contending sectoral publics.

Yet, a sociological-contextual approach offers the most accurate response to the complex governance mechanisms and rule-making entities beyond state, since it acknowledges the multiplicity of global governance agents in terms of their policy-making powers and their stakeholders. While different frameworks of a sociological-contextual nature might differ in weighing different sources of legitimation (norms, constituency, procedural qualities), the common concern is that rules and norms, the legitimacy-seeking actors' justification and social purposes and goals of relevant constituency constantly interact to generate credibility, support and acceptance for rule-making authorities.

The chapter has also highlighted that there are applications of this sociological understanding to the existing accounts of peace-making and conflict resolution. These studies suggest that local stakeholders play the role of constituency in the two-way relationship that generates legitimation while third party conflict resolvers increasingly assume rule/decision-making authority. In this sense, the conceptualisation of legitimation in a sociological-contextual approach does not only offer strikingly similar conceptualisation of legitimation as it is discussed in political theory; but also provide a guideline for categorisation of a multi-dimensional framework of legitimation for EU conflict resolution.

The EU's approach to conflict resolution can be considered as a part of global governance rather than as an example of traditional third party mediation. It involves

authoritative decision-making and standard-setting in conflict regions with an aim to address the root causes of conflicts and encourage reconciliation between adverse groups. The EU is also directly engaged in rule-implementation and service-providing in many areas. In this sense, the legitimization of EU conflict resolution which has generally been overlooked in the EU literature, provides a good case to burrow into broader debates that have dominated the IR literature in recent years. Adopting a sociological-contextual legitimization approach towards EU conflict resolution would allow us to establish the missing link between the EU as conflict resolver and the addressees on the ground.

However, it must be noted that besides some similarities with global governance arrangements, the EU displays important differences when dealing with conflict resolution. While the similarities can be captured in relation to the scope of decision making authority as unrepresentative and technical which entails rule-setting, rule-implementing and service providing powers, the EU exhibits qualitative differences from typical global governance institutions such as the WTO, IMF, ILO, Internet Cooperation for Assigned Names and Numbers (ICANN), Forest Stewardship Council (FSC), Basle Committee on Banking Supervision (BCBS), to give a few examples. Such institutions offer specific expertise in a defined area and work on a model of technocratic governance. As Risse argues, non-hierarchical steering dominates transnational/global governance institutions' ability to enforce decisions. Such institutions merely rely on positive incentives, bargaining and sanctions to manipulate cost-benefit calculations of the relevant audience as well as non-manipulating persuasion such as learning and arguing which is built upon "the moral legitimacy of the rules and norms in question" (Risse 2004a: 4-5). These characteristics of 'typical' global governance institutions led some authors to emphasise efficiency and performance instead of normative and social qualities as the main source of legitimization (Koppell 2008).

On the other hand, EU conflict resolution is based on a complex set of rules and principles that derives from the *acquis* and even from the EU's own example as a peace process and unique decision-making mechanisms. Such a normative-legal background is not available to issue-specific global governance institutions. Hierarchical steering is the natural component of the EU 'where European law constitutes the "law of the land"' not only for the member states but also for some addressees of conflict resolution policies (Risse 2004: 5). Conditionality applied to conflict cases and especially the presence of (or the prospect of) integration into the EU allows the Union to establish a hierarchical

relationship with local actors in the area of conflict resolution where certain EU principles and law replace domestic rules.

The implications of this hierarchical relationship are not easily predictable in relation to the EU's legitimation. It might bring a broader substantial right to EU governance and oblige local groups to comply through locking them in a hierarchical relationship or it would trigger deep challenges for the EU's authority and diminish support from societal actors, if it fails to involve the consent of local actors or it would cause an increase in the expectations of local groups for the EU to an extent that the EU's performance would fail to meet.

Hence, some of the approaches reviewed above are not directly applicable to EU conflict resolution; first, there is not a general framework of legitimation for diverse non-state actors of global rule-setting; and second, the EU does not act as a typical global governance institution. Its decision-making power in conflict zones has far-reaching implications for the political, economic and social life of the local addressees. Still, this chapter has showed that a sociological-contextual understanding of legitimation allows a contextualisation to analyse the social bases of the EU's authority in conflict resolution based on local support.

The next chapter sets out the framework of analysis based on the principles of legitimation for non-state governance actors, definitions and sources of legitimation, as discussed in this chapter. Following a sociological-contextual approach, it turns to analyse the EU conflict resolution as a specific area of legitimation in relation to the local actors in the conflict zones and propose a framework. In this sense, legitimation of EU conflict resolution is based on an analytical perspective that takes the impact of international law and principles, norms, moral acceptability, participation or input from the local audience, procedural qualities and performance into consideration.

Chapter Three – Legitimacy and EU Conflict Resolution: A Framework for Analysis

3.1 Introduction

This chapter sets forth the analytical framework of the thesis. The purpose is to identify a comprehensive framework that would address the potential sources and objects of the legitimization of EU conflict resolution to be consistently applied for empirical investigation in the following chapters. As discussed in the previous chapter, the literature identifies the problems of legitimacy for the actors of global governance and offers a wide array of measures to address the problems of accountability, participation and performance efficiency beyond democratic state. Given the lack of a standard ‘recipe’ offered in the literature to apply for EU conflict resolution and the EU’s unique relationship with local actors, the thesis develops its own four-part framework by bringing various dimensions of legitimization raised by political theory and global/transnational governance literature.

Introducing a framework has three advantages: first, it sets a comprehensive typology listing potential sources and mechanisms of legitimization for the EU; second it helps to identify the potentially sensitive or weak points of EU conflict resolution legitimization from the beginning; and last, it highlights the continuous process, the ‘push and pull’ between the EU and local stakeholders that constitute the intersubjective nature of legitimization.

As discussed in the previous chapter, political theory frames legitimization by referring to a mixture of normative and empirical sources of legitimization and different types of constituency support as an expression of sustained consent for rule-making bodies. We have also seen that problems stemming from legitimacy of non-state actors are an urgent concern given those actors’ power and scope of rule-setting and implementation on various groups of addressees. However, we need context-specific definitions of the sources and objects of legitimization for different global actors when studying and explaining these problems. To summarise the main points that underscore ‘legitimacy/legitimation’ both in political theory and a sociological-contextual approach of this thesis:

- Legitimacy can be studied and explained as a practice or process of legitimization. Therefore, a decision-maker, institution or an actor has varying legitimization processes rather than being legitimate or illegitimate. How legitimization take place

between the rule- and decision-making authorities and their addressees (who are the bearers of these decisions and the ultimate providers of support) is central to understanding the sources and maintenance of the authority.

- Legitimation has an intersubjective nature. As Bernstein notes (2011: 17) “what constitutes legitimacy results from an interaction of communities who must accept the authority of the institution with broader legitimating norms and discourses- or social structure- that prevail in the relevant issue are”. When studying the process of legitimation, one has to focus not only on one-sided justifications of the decision-maker, institution or actor; but also the feedback, contesting normative arguments of the constituency, level of participation and reasons for consent or dissent. Without a focus on the intersubjective process, one-sided justifications cannot complete our study of legitimation.

The analytical framework offered in this chapter departs from the main tenets of legitimation defined by the sociological-contextual approach. In this sense, it emphasises two main tenets of the legitimation process: the recognition and support by the local groups in the conflict zones and the compatibility of the rule-making actor (the EU and its representative bodies) with context-specific norms, principles and needs.

First, the chapter addresses the centrality and requirement of legitimation for EU conflict resolution through identifying the gaps in the current EU literature. In this sense, the section extends the initial discussion in the introduction chapter. Second, it introduces the four-path framework along the two main dimensions of legitimation: normative and empirical sources of legitimation, and diffuse and specific support from local groups. In doing this, the section focuses on the intersubjective legitimation process or the ‘push and pull’ between self-justifications and actions of the EU and local interpretations, perceptions and actions.

3.2 Why study the legitimation of EU Conflict Resolution?

Legitimacy for the actors of the international community is an omnipresent need. If left unattended, problems of legitimacy erodes credibility and authority of international actors (Clark 2005). However, given the elusive mechanisms and sources of legitimation for the international/global governance institutions and the EU’s difference from international organisations and global governance actors, one could be tempted to ask why we should be

concerned about legitimization of EU conflict resolution. There are two main reasons that necessitate the study of the legitimization of EU in the conflict resolution field: First, recalling realist/neo-realist approach, legitimacy at the international level is akin to compliance with the accepted rules of conduct by all international actors (Section 2.6.1). However, there is a general ambiguity in terms of the rules of conduct in the conflict resolution field that also concerns every international actor interested in international peace and stability. As discussed in the previous chapter, this ambiguity is mostly due to the contestation between peremptory principles and new practices and norms in the field of conflict resolution. Traditional sources of legitimization such as state consent (sovereignty and non-intervention) or legal compliance (as UN authorisation) are insufficient when non-state actors engage in long-term conflict resolution. Various state and non-state actors need to justify their actions and rely on societal sources of legitimization.

In this sense, acting along ‘the fault lines of international legitimacy’ (Charlesworth and Coicaud 2010), the EU also binds itself with a need to seek consent and support from the international community as an actor of conflict resolution taking part in the emerging global governance (EUISS 2010). The EU displays a willingness to upgrade and support new sources and practices in conflict resolution through a progressive development of the existing international rules in relation to non-intervention, whilst seeking broad consensus and effective multilateralism. In doing so, the EU, like many other actors in international politics, enjoys the room for manoeuvre generated by the normative indeterminacy in interpreting and implementing the existing principles and rules. This renders EU conflict resolution an ideal case for studying legitimization.

Second, conflict resolution has become a part of the broad global governance which impacts on local communities and groups. As the external actors involve in conflicts independently or autonomous from the UN, they address local populations directly through exercising state-like responsibilities on the ground. The long-term engagement of external actors in conflict zones turns various local groups into an actual constituency for appeal in order to seek acceptance and support for conflict resolution policies. Conflict resolution engagements more and more represent a direct power relationship between local populations and external conflict resolvers. In this power relationship, local recipients’ support is at the centre to maintain conflict resolvers’ authority; since local groups can impact the conflict resolution process by granting or withdrawing societal support. The complexity and multiplicity of ‘the local’ that makes up the constituency of conflict

resolvers urges a meticulous examination of this power relationship and its legitimization similar to the one between domestic rule-takers and rule-makers.

In the conflict resolution field, the EU constructs a specific argument about its own legitimacy through the normative power argument. As discussed in the introductory chapter to the thesis, the ‘normative power’ argument is intensively operationalized in the field of external relations and conflict resolution as a narrative to claim legitimacy. This argument constructs “a particular self of the EU (and it is indeed perhaps the only form of identity that most of the diverse set of actors within the EU can agree on), while it attempts to change others through the spread of particular norms” (Diez 2005: 614). This self-identity construction relies on the narrative of the EU as a force for good (based on liberal democracy, support for international law and cooperation, human rights, social and economic development). This normative power construction is also linked to, what Pace (2007) calls, an ‘ethos of impartiality’ through which the EU seeks to initiate/impose changes in conflict zones according to its own agenda.

In this depiction of the EU as an impartial and benign actor, there is also a claim to legitimacy as a static and normative credential, and independent from the actual recipients or addressees of EU conflict resolution. The self-declared universality and impartiality is expected to generate active local support, cooperation and compliance (a sign of legitimacy) (Diez and Pace 2007). The local actors in conflict territories are expected to emulate the ideals of the normative EU (Pace 2008). Pace highlights that it is not only the academic commentators on EU external relations but also the policy-makers in Brussels that also accept the normative EU narrative and “continuously validate, produce and reproduce” a self-maintaining EU mind-set through this argument (Pace 2008: Loc:2760)

However, the producer of ‘the identity is not [totally] in control of what it ultimately means to others; the intersubjective structure [of identity] is the final arbiter of meaning” (Hopf 1998: 175). Lucarelli and Fiaromonti’s (2009: 3) remarkable study on non-EU countries and actors’ perceptions illustrates that normative self-definition mostly represents a “high-flying rhetoric” that “could even be dangerous as it might easily generate cognitive dissonances between what the EU ‘says about itself’ and what the rest of the world ‘thinks’”.

Moreover, as discussed previously, legitimacy is not a self-declared source of power, but it is “the glue that links authority and power. By justifying authority in the eyes of the governed, legitimacy empowers authorities and increases the likelihood their commands will be obeyed” (Bernstein 2011: 20). More importantly, the self-perception of one’s

identity as normative ergo legitimate and ‘worth obeying’ is just one side of the coin, while the other side can be captured through an intersubjective approach to ‘understand the dynamics of the legitimation process’ by looking at the relevant and addressed others and checking “*collective expectations about proper behaviour for a given identity*” (Katzenstein 1996: 54). These collective expectations about proper behaviour bear direct reference to the legitimation of the EU from local recipients’ point of view.

Given the prominence of self-identity construction as a distinct normative power in the EU conflict resolution literature, there are far fewer studies that question whether the discursive exercise of the EU would amount to actual power to transform or resolve various conflicts through the means of Europeanisation, conditionality, accession or association (Coppieters, Emerson et al. 2004; Tocci 2005; Diez, Stetter et al. 2006; Noutcheva 2009). These authors agree that the EU generally adopts a holistic conflict resolution approach, i.e. long-term policies of development, democratisation and reconciliation at the societal level by emphasising cooperation with other third parties like the UN, OSCE and donors (Albert, Stetter et al. 2007). They clearly show that the impact of the putative normative power, Europeanisation, accession/association as conflict resolution instruments is limited. Some argue that the EU’s limited positive influence is a result of the inherent practice of ‘Othering’ the conflict parties through a hegemonic construction of ‘the Self’ as normative (Diez and Pace 2007: 2). Others demonstrate that specific actors and circumstances outside the EU’s control could have various effects on the transformative power of integration and association. Such external factors, among which locals are worth paying close attention, can even create unintended consequences in conflict transformation (Coppieters, Emerson et al. 2004; Diez, Albert et al. 2008). In other words, the existing studies which question the self-identity construction as force for good in the EU literature agree that external actors and domestic players in conflict zones perform an important role in shaping the EU’s impact in its conflict resolution engagements.

However, these studies share one common bias that the process of conflict resolution is mainly driven by the EU; and local resources, actors and institutions intervene as secondary factors in response to the EU agenda with an aim to strengthen, weaken or divert the intended EU impact. And, this bias prevents them from systematically assessing what Katzenstein calls ‘collective expectations about proper behaviour’ or the practices of legitimation of the EU from the actual recipients’ standpoint. In other words, these studies follow a top-down approach to analyse the impact of self-declared normativeness in

resolving or transforming conflicts. For instance, Diez et al. (2008) suggest different 'avenues' for the EU to transform the conflict and local identities in favour of settlement and reconciliation. A key conclusion of the authors is that "the actual use made of integration and association ultimately depends on how these (dis)incentives by the EU play out in the domestic context, which is beyond the direct reach of the EU" (Diez, Albert et al. 2008: Loc249). In other words, Diez et al. (2008: Loc.401) argue that "the effectiveness of any sort of influence on the conflict will also depend on the way in which the perturbation is reacted to" by the local recipients. More clearly, they have found that local actors can easily make use of the integration process to securitise or de-securitise the current situation on the ground and thereby, diminish or enhance the conflict.

Yet, the EU is considered as the principle agent in this approach. In Diez et al.'s explanation, the local context only unfolds to facilitate or hinder conflict transformation¹⁶ by accepting or rejecting the normative EU actorness. While they consider four different pathways¹⁷ for EU 'perturbation' that are shaped either by 'the concrete interventions by the EU actors' or 'discursive, legal and institutional framework' of integration/association process, local factors remain as medium variables in explaining how 'EU's perturbation' on the conflict is 'diverted' by local factors (Diez, Stetter et al. 2006: 568). Hence, the EU is in the driving seat as the 'conflict perturbator' to define the pathways for transformation; and local stakeholders might enable or hinder the EU's impact and force the EU to readjust its policies.

Different from Diez et al., the model offered by Coppieters et al. is based on a conditionality-socialisation pair. Yet, it still works through a top-down process. According to the authors, the EU has two instruments: presenting or withdrawing incentives (i.e. conditionality) in the short-term and the socialising effects of Europeanisation in the long-term (Coppieters, Emerson et al. 2004). The EU can have an impact on conflict resolution either through pleasing the rationalist local political elites thanks to the presence or withdrawal of benefits or long term endogenous change of identity perceptions and

¹⁶ Conflict transformation is defined as contribution of the EU to move the conflict towards either a less intense stage or to trigger new positions of the conflict parties that exacerbate the incompatibility of their claims and positions vis-à-vis each other. Diez, T., M. Albert and S. Stetter (2008). The European Union and border conflicts : the power of integration and association Cambridge, Cambridge University Press (Kindle Edition).

¹⁷ Diez et al. define four pathways that the EU can interfere with an existing conflict in order to transform it. These pathways are 'compulsory' (direct involvement of the EU actors through concrete policies), 'enabling' (integration process aiming at changing local policies), 'connective' (involvement of EU actors to connect local parties to the conflict) and 'constructive' (a genuine change of subject positions of the conflict parties). They are all dependent of EU resources and initiated by the EU.

interests due to Europeanisation through socialisation. In this model, the initial phases of conflict resolution would require an emphasis on the benefits by the EU in order to trigger local compliance/adaptation by persuading or subtly coercing the local leadership, whilst over the long term, genuine internalisation through socialisation gains prominence. In cases of persistent rejection to comply with the EU agenda by local politicians, “it is imperative for third parties to improve the benefits of settlement by providing additional resources that would induce the elites to settle” (Coppieters, Emerson et al. 2004: 35).

Their findings also suggest that local leaderships have the ability to cooperate with other external organisations and powers as to engender diplomatic, material and even military support for their own claims to hinder or slow-down the EU impact. Therefore, the EU instruments of conflict resolution can easily create unintended consequences depending on the unique local circumstances and perceptions of the local politicians. In this approach, Europeanisation as a conflict resolution tool exerts similar adaptation pressures in all conflict resolution cases and local leaderships are expected to obey the EU requirements thanks to the conditionality and socialisation pair. Again, the EU is in the driving seat distributing incentives and re-arranging power relations in conflict territories and local politicians are semi-autonomous respondents to the EU agenda.

Noutcheva’s work on the Western Balkans is particularly important to mention in relation to an analysis of local factors contributing into the EU’s conflict resolution viewed from a top-down perspective. Noutcheva (2009) has demonstrated that whether locals perceive the EU as a normative actor or not in terms of its motivations and policies could easily lead to strategic or fake compliance on the side of local actors. Domestic perceptions about the overall purpose of the EU policies are an important factor that would create rejection and challenge for the EU. Noutcheva’s work is different from Diez et al. and Coppieters et al. in the sense that it acknowledges different factions within the local constituency and their diverse resources and actions. The contestation over the EU agenda is not only due to resistance from authoritarian political leaders, but might also be generated by reform-oriented political forces. Noutcheva (2012: 197) states that the success of conditionality in bringing transformation in the Western Balkans “is not simply a matter of empowering the right political actors within each domestic context and progressively marginalising their opponents, not least through popular mobilisation against the non-compliers”. The EU agenda might “entrench political disagreements [in domestic spheres of conflict-torn countries] instead of bringing consensus around an EU agenda which no political actor can plausibly claim to be against” (Noutcheva 2009: 1074-5).

Similar to Noutcheva's findings, Tocci (2005: 12) indicates the developments in conflicts in Israeli-Palestinian case and Turkey-Kurdish separatists question that 'domestic determinants, interacting with wider regional and international factors' predominantly dictate the 'effectiveness' of the EU's role. Noutcheva and Tocci go further in taking into account the variance of local actors; yet, their approaches also depict the impact of local forces, perceptions and their separate agendas in conflict resolution as secondary or intervening factors on the EU policies and the aimed successful conflict resolution outcome.

Christou's study on interpretations and strategies of conflict parties is another attempt to understand the local agency in a more contextualised manner. Christou (2010) analyses the EU's ability to replace the hard/statist border perceptions in Cyprus with open frontiers that would create a common identity between the Greek Cypriot community (an insider state) and the Turkish Cypriot community (an outsider at the margins of the EU). In doing so, the author aims at moving beyond the unidirectional analyses focused on the EU side in order to understand how borders are co-constituted through a constant interaction between conflict parties and the EU. He argues that nuanced local interpretations of "the EU's self-construction as a force for good among conflicting parties" as well as the strategies that they pursue vis-à-vis the EU policies have an ability to "hinder or enable" the EU on the ground; and thereby, these interpretations "can determine the relative openness of the EU border" (Christou 2010: 57). Christou's study is important to acknowledge and analyse the local context as an independent 'site of action' and to move beyond the self-acclaiming tendency of the normative power argument (2010: 60).

Overall, these studies provide an excellent insight into the hidden dynamics of integration and conditionality as conflict transformation tools by rejecting the assumed natural link between integration/association and conflict resolution. These authors demonstrate -through theoretically and empirically sound studies- that there is not a straightforward relationship between incentives, conditionality-socialisation or integration and transformation of conflicts, contrary to the common expectation. They share a main conclusion that the way in which local forces perceive normative power of the EU and their ability to resist the EU's agenda precludes the automated impact of integration and/or conditionality-socialisation on conflict resolution. The instruments of the EU cannot be applied as "ready-made toolbox" in different conflict cases (Diez, Albert et al. 2008).

Nevertheless, these studies have not completely addressed the diversity of 'the local' and 'how' their independent convictions, attitudes, discourses and strategies can impact the

relevance and authority of the EU in a specific case of conflict resolution. The common assumption of the top-down approaches reviewed here is that they consider only two alternative courses of action for local actors: either acceptance or rejection of ‘the normative/force for good EU’ by (mostly) the political elites in the conflict territories. In other words, local actors are considered reactionary to the EU agenda without independent attitudes, perceptions, and norms. For instance, Noutcheva (2009: 1074) notes that

[i]f a foreign policy action is truly normative, it will be accepted as such by the domestic players experiencing its effects and they will submit voluntarily to the normative pressures for change. If a foreign policy acts normatively, it will meet no opposition to its demands for behavioural change. Even in the absence of a universal normative agenda, an action can still be considered normatively legitimate, if domestic actors accept as normal the behaviour expected by the norm concerned and do not challenge external adaptation pressure to that end.

In the same vein, top-down approaches assume that if the normative identity and agenda of conflict resolution is not accepted by locals, then, in the short or medium term “the potential effectiveness of the EU’s contractual ties and conditionalities ... depends pivotally on the benefits on offer and the costs of compliance with contractual obligations” (Tocci 2005: 12). Similarly, Christou (2010) limits the actions available to the conflict parties in Cyprus to a choice to accepting or rejecting the EU as force for good. As a result, local groups can emulate, manipulate or reject the EU norms and policies. The author explains the reason behind the manipulative action through the same dichotomy. The local leaders have three options: “acceptance of the EU as a force for good and a rejection of EU norms; acceptance of the EU as a force for good and manipulation of EU norms to enhance rather than ameliorate conflict; and, finally, a situation where EU norms are accepted by conflict parties, but the image of the EU as a force for good is only shared by some conflict parties” (Christou 2010: 60-61).

As seen in these examples, the recent studies questioning the normative power EU argument demonstrate that the local agency can shape the EU’s ability to generate an environment conducive for transforming the conflicts; but the top-down understanding in explaining the local context and agency assumes that the EU is “a dominant partner in an unequal relationship” and with the resources available –including normative power; and if and when accepted by locals, the EU can pursue its own agenda (Pace, Seeberg et al.

2009:7). The EU has the actual control of the whole process through ‘perturbation’, i.e. ‘challenging existing conflict discourses or opening windows for non-conflict related discourses’ (Diez, Albert et al. 2008: Loc 406). The EU sets the framework, decides the main policy tool to intervene in the conflict (integration, association or as a third party mediator) and determine conditions, incentives and the specific local actors for empowerment. The outcome might be intended conflict diminishment or unintended conflict-enhancement. The local actors can act autonomously but still with a limited room for manoeuvre compared to the EU. Although local groups are defined as “factors outside the EU’s control” aiding, distracting or impeding the EU’s role in transforming the conflict (Diez, Albert et al. 2008), local expectations and agendas are described as ‘reactionary’ to the EU’s policies and actions.

As a result, the impact of the local behaviour is explained in a simplified through a binary classification: positive EU impact is “related either to a credible membership perspective, i.e. presence of a strong incentive or the long-term effects stemming from integration into the EU”, i.e. socialisation and internalisation of EU norms (Diez, Stetter et al. 2006: Loc.3202-3209). Given the EU bias dominating the literature, the top-down approach usually concludes that the rejection or reinterpretation by local agency pertains to a ‘conflict enhancing’ attitude.

Moreover, the existing accounts tend to treat ‘the local’ as a uniform body, and mostly evaluate them only through the existing leaderships’ point of view. For example, Noutcheva (2009; 2012) and Christou (2010) dominantly focus on the macro-level actors such and local leaderships in the Western Balkans and Cyprus without systematically analysing the different perceptions and resources available to micro-level factors or various groups within the local audience. The impact of the diversity of local audience, informal local understandings and norms about appropriate action by the EU, collective and divergent expectations of the fragmented local audience are not assessed in detail. These factors would determine how, when and under what conditions impact of the EU in transforming conflicts would be hindered or enabled by the local groups. As a result, the top-down approach fails to assess the continuous process of interaction, push and pull between the EU and various local groups.

To summarise, the existing studies clearly argue that ‘local actors matter’ for the EU’s overall impact as a conflict resolver; what is still to be discovered, however, is when and how they matter, under what conditions they accept the normative framework and incentives of the EU. How can we account for the uninterrupted reference to the EU by the

local actors in conflict territories, despite the generic lack of local perceptions of the EU as normative? Is motivation to comply with the EU agenda by local groups -thanks to the incentives offered by the EU- sufficient to explain the highly securitised environment of protracted conflicts where people prefer physical security and maintenance of distinct identity to economic and other benefits? Is it possible to talk about long term socialisation given the EU has persistent problems and shortages in delivering promised incentives such as development, integration, visa free travel, free trade? There are three crucial points that need to be examined in order to understand the complexity of 'the local' and the local-EU relations that are overlooked by the current accounts. The analytical perspective of legitimisation as an intersubjective process would seek filling these gaps.

First point is the potential difference between the understanding of a norm-driven action that is upheld by the local groups and the EU. In this sense, Diez and Pace (2007: 2) have already discussed that 'the reality that is enabled by this power [i.e. normative power] is a good or bad one depends on the normative stance of the evaluator [i.e. locals in conflict resolution]'. When the existing studies emphasise the role of local acceptance or rejection of the EU as a normative actor, they take it for granted that the local audience and the EU share (or they are expected to share in the long term) one common vision of normativeness underlined by Western liberal/democratic norms. By looking from top to bottom, they argue how EU policies induce conflict resolution agenda or fail to do so due to either a lack of incentives (resulting from internal contradictions, political reluctance on the side of the EU) or a lack of local internalisation of EU norms. However, as Pace, Seeberg and Cavatorta (2009: 7) have demonstrated the recipients of the EU's democracy promotion policy 'can signal to the EU what their preferences are, highlighting their position and values in order to influence the ways in which EU policies ... are implemented in practice'. Moreover, the irrelevance of 'perceptions of normativeness' for local actors should not be disregarded, although the EU uploads a crucial symbolic meaning to it.

Second point is the simplified categorisation of actions available to locals. Throughout the process of conflict transformation/resolution, the locals are not expected to go through a linear and unidirectional process of rational adaptation (cost-benefit calculation) and then, socialisation. Local actors are more likely to receive, process and interpret different and often conflicting agendas of multifarious thirds parties and even different EU institutions. The analysis of legitimisation practices, the so-called 'push and

pull' by the EU and local groups would reveal other paths that do not fit within the conditionality-socialisation process.

Final point is the failure of the current studies to go beyond a simplified understanding of legitimacy/illegitimacy, although a number of authors acknowledge it as a central factor impacting upon EU's efforts to resolve conflicts. For example, Coppieters et al. (2004: 36) acknowledge that the conditionality-socialisation path might not work in favour of conflict resolution or even contribute to the deterioration of status quo when policies 'are not viewed by one or both parties *insufficiently legitimate*, if existing domestic practice is uncontested, if European norms are *insufficiently related to domestic norms* or if institutional ties between the EU and the parties to the conflict are too weak'. However, the authors do not further explain how and when policies of the EU are seen 'insufficiently legitimate' or how insufficient legitimacy is related to the mismatch between the EU norms and local norms. Similarly, Noutcheva (2012) simplifies legitimacy of the EU conditionality as seen by domestic local actors as a dichotomy of high and low legitimacy. As argued earlier, legitimacy/illegitimacy can only describe exceptional situations; and these concepts are rather static and do not tell us about the characteristics of the power relations between the rule-makers and addressees as well as the persistent problems of EU conflict resolution. It is important to understand how and 'in what ways' legitimisation takes place (Barker 1994: 102).

The analytical perspective offered here aims at addressing these points. A framework of legitimisation is employed to reproduce the relationship between the EU and local actors from an alternative perspective (as an iterative or intersubjective relationship or push and pull process between the locals and the EU) to analyse and explain other alternatives and *raison d'être* for local action vis-à-vis the EU policies. Since divergent local actors display a great variance in terms of perceptions of and interactions with the EU, it is likely to discover a more complex set of mechanisms. In this sense, contrary to the common approach in the literature which focuses on the EU's own discourse and actions in order to analyse the divergence between words (normative EU) and deeds (actions and capabilities), the framework of "locally sourced legitimisation" for the EU offers an alternative approach. This approach does not discredit how the EU represents itself and what kind of role it conceives for itself. The intersubjective nature of legitimisation allows an examination of the self-declared role of the EU together with the ideas, attitudes and actions of local actors.

3.3 Sources and Mechanisms of Legitimation: A Framework for Analysis

This section aims to discuss the four-path framework for analysis by defining the indicators and mechanisms of legitimation for EU conflict resolution. The aim of the proposed framework is to bring an alternative to top-down perspectives and attain an insight into the complex local reasoning and political claims-making. In the next chapters, the framework is applied to two conflict cases: Kosovo and North Cyprus. The patterns of legitimation in each case are then used to understand and explain the local impact on the EU's role in conflict resolution/transformation. The framework is applicable to EU conflict resolution governance and does not claim to provide a general framework for legitimation for multifarious global governance institutions¹⁸.

The pathways of legitimation that are offered here to account for the locals' impact aim at revealing the sources and mechanisms of legitimation based on the locals' support for the EU policies. In this sense, legitimation of the EU does not only refer to acceptance and internalisation of EU's normative agenda, but also the EU's performance in relation to self-assigned responsibilities on the ground as well as the capability and willingness to include local stakeholders into the rule making, implementing and service providing. These processes would reveal the greater room for manoeuvre available to local actors than simply choosing between rational action by evaluating costs and benefits of incentives facing conditionality or socialisation through acceptance or rejection of EU norms. In this vein, the legitimation framework of the EU in the field of conflict resolution is based on the two main dimensions that were previously discussed: *normative-empirical fusion* (EU reliance on prescriptive and subjective sources of legitimacy) and *specific and diffuse support* (local recognition, support and consent for various components of the EU).

Normative-empirical fusion

As a normative notion, legitimation would depend on certain norms, rules and values (Haunss 2007). As an empirical notion, legitimation requires an ability to find acceptance and support expressed by the relevant audience as a rule-maker authority. If legitimacy provides a right to issue rules and to demand compliance, beliefs of the recipients (empirical sources) cannot be separated from the normative conditions when it is ought to be legitimate (normative sources) (Buchanan and Keohane 2006). As discussed previously

¹⁸ As discussed in the previous chapter, there are no universally shared normative rules in relation to global governance which renders all prescriptions limited and ephemeral in terms of applicability.

in Chapter Two, the two aspects have an organic link as co-constituents of the legitimization process. The close relationship between normative and empirical sources of the legitimization process is explained by Buchanan and Keohane (2006: 405) in relation to the WTO's legitimization: "[w]hen people disagree over whether the WTO is legitimate, their disagreements are typically normative. They are not disagreeing about whether they or others *believe* that institution has the right to rule; they are disagreeing about whether it *has* the right to rule". In other words, the functions that various EU institutions desire to perform cannot be accomplished, if local groups do not regard them as worthy of support after evaluating through moral and normative criteria.

Following the widely accepted fusion between normative and empirical sources of legitimization, the framework in this thesis incorporate both prescriptive sources (pre-defined law and rules; external principles and values) and empirical sources (recognition and acceptance by target groups). The dialogue between empirical and normative sources confers legitimization a social as well as a principle-laden characteristic by emphasising the consent of the addressees and by defining substantial normative criteria that inform the beliefs of the audience. In other words, the normative-empirical fusion means that the acceptance of the EU agenda by locals as a way to address the conflict cannot occur purely out of the local groups' self-interest. While rational calculations can be a part of recognition and ensuing compliance with the legitimate authority of the EU, local actors' beliefs are always guided by some normative criteria.

Specific and diffuse support

The second main component of the EU's legitimization is support or the way in which consent is expressed by local groups which is defined in relation to various representations and the institutions of the EU on the ground. Without the support of at least politically relevant members of the system, "the authorities would encounter severe difficulties in processing demands through outputs or implementing decisions already taken" (Easton 1965: 154). As discussed earlier (section 2.4.2), David Easton defines two specific ways of expressing consent towards governance systems: diffuse and specific support.

Following Easton's typology, specific support means temporary support for an incumbent institution and/or particular policy; therefore it is 'object-specific'. It is related to the satisfaction of the local addressees when they evaluate EU's particular decisions, policies, actions, utterances or the general performance outputs. The criteria for evaluation are their own needs, demands, and priorities. On the other hand, diffuse support refers to

genuine trust and belief for the EU as a framework organisation. It is related to the consent or acceptance for general norms and principles that underlay EU actions.

In this sense, it is feasible to differentiate between the perceptions of the EU as a framework and its particular ground representations and policies given the multi-dimensional and multi-actor involvement of the EU in conflict territories. The table below summarises Easton's theory of support as applied to the EU conflict resolution:

	Diffuse	Specific
Object of Support	<ul style="list-style-type: none"> • EU as a constellation of norms and framework 	<ul style="list-style-type: none"> • EU's different ground representations acting as conflict resolution agents • EU's various conflict resolution policies (e.g. financial aid, preferential trade agreements, civilian and military missions, conditionality)
Discourse Expressing Support	Emphasis or affirmation of Europeanness, European values and norms or/and Europeanisation	Emphasis or affirmation of material and policy-specific benefits, EU's efficiency in meeting local expectations, capabilities.

Source: Author's adaptation of Easton's (Easton 1965; Easton 1975) typology of support.

Diffuse and specific support provides a useful analytical distinction to differentiate the support for the EU as a framework and the support for its ground representations (the Commission office, special groups among the MEP's dealing with the conflict, ESDP missions, special representatives etc.) and its specific policies (integration, trade preference, financial assistance, visa liberalisation, facilitator of bi-communal mediation, conditionality etc.)¹⁹.

Following Easton's typology of support, if locals are persistently satisfied with the EU's performance that are likely to build confidence in its values, more diffuse support is expected in time. Similarly, if dissatisfaction with the EU's performance persists, diffuse

¹⁹ EU as a framework refers to the broad perceptions of the EU by locals autonomous from the specific policies and representations of the EU for the conflict case. It is ideational and institutional constellation of the EU as a layer of governance and identity for locals. See pages 25-27 in Coppieters, B., M. Emerson, et al., Eds. (2004). Europeanization and Conflict Resolution: Case Studies from the European Periphery, Academia Press. Also, Christopher Hill differentiates between the EU as a framework organisation and action organisation Hill, C. (2001). "The EU's Capacity for Conflict Prevention." European Foreign Affairs Review 6(3): 315-333..

support for the ideals and moral arguments that the EU's identity is based on would be under risk in the long term. From an empirical point of view, it might be difficult to differentiate when the sustained appeal for performance actually turns to diffuse support or how long a performance failure can persist without crossing the critical threshold to damage the diffuse support. Still, the analytical differentiation between diffuse support for the EU as a framework and specific support for EU actors and policies is useful. Especially in the case of conflict resolution, local support would be either expressed for specific actors or policies on the ground or for more ideational framework the EU represents for conflict resolution (support for democratisation, human rights development, and other EU values). The categorisation also allows us to understand how change in one type of support would affect the other type and the overall legitimisation process of the EU. Moreover, it allows us to focus on both moral support and trust in the long-term and current evaluations of relevant local groups in the short-term.

In relation to these two main dimensions (normative-empirical, diffuse-specific) of legitimisation, four different pathways of legitimisation are defined here for EU conflict resolution. The table below shows the four-path framework along the two dimensions:

		Sources of Legitimation	
Objects of Legitimation	Diffuse Support	Normative Sources	Empirical Sources
	Specific Support	Legitimation through norms and principles Legitimation through participatory and procedural qualities	Legitimation through local ideas/ideologies Legitimation through performance

These types are not novel categories in the sense that the framework mainly adopts the sources of legitimisation in political theory and the sociological-contextual approach of the legitimisation of non-state governance institutions and actors. However, the typology is innovative in two aspects: First, when the existing studies talk about problems of legitimacy stemming from the lack of accountability, participation and efficient performance of non-state decision-makers in relation to non-state governance and actors, they do not propose a conceptual framework for systematic and comparative analyses of legitimisation process (except a recent study offering a typology of legitimisation and applying it to specific institutions, Take 2012). As seen in the previous chapter, the

literature often provides broad guidelines focusing on different sources such as ‘input’ from stakeholders, procedural mechanisms such as transparency and accountability, and problem-solving performance. Moreover, the existing works (especially theorisations on legitimacy beyond the state) tend to prioritise one aspect (normative or empirical) when assessing sources for legitimisation of an actor in international politics. Also, constituency or stakeholders are usually treated as a uniform body. In short, there is a lack of a comprehensive analytical framework to allow structured and focused empirical research in the global governance literature. Given the complex nature and multi-dimensionality of the EU and the local groups it addresses, this analytical framework brings various sources and dimensions of legitimisation together along the two main dimensions.

Second, the framework is designed to analyse the complex relationship between the EU and various local groups in relation to the Union’s conflict resolution engagements. Hence, it aims at capturing both beliefs and normative guidelines of the EU and local actors on the ground. Existing arguments on legitimisation of non-state global governance suggest meticulous clarification of specific constituency, procedural and performance quality in relation to different governance areas and institutions (see the previous chapter). In this vein, the framework particularly discusses the role of various legitimisation mechanisms through continuous reciprocal relationship between the EU and local groups.

The first type, *legitimation through norms and principles* is generated through the credibility of the main normative framework that defines motives, values and behavioural conventions of the EU and provides the constitutive and regulative basis of EU’s legitimisation in conflict resolution (Bernstein and Cashore 2007). It is independent from what a specific EU institution represents or its conduct on the ground. The EU as a framework, idea or model is the object of the legitimisation process. The main normative structure that determines legitimisation through the norms and principles of the EU in conflict resolution includes overarching international principles and practices of the international community in relation to conflict resolution. According to Bernhard (2012: 5), “premises and norms play a crucial role in the determination of conflict resolution initiatives” for conflict resolvers like the EU. In this sense, legitimisation through norms and principles displays the most standard mechanism of legitimisation among the third party conflict resolvers since it draws on the general norms and practices common to the international community. However, as discussed before, moral disagreement and uncertainty in relation to the involvement of external actors in conflict resolution is widespread which makes finding normative/moral convergence difficult at the global level,

if not impossible. This normative indeterminacy constrains the efforts to define a widespread framework or shared normative structure at the global level for legitimization through norms and principles.

In this sense, minimal moral acceptability of the normative agenda is accepted as the ‘rock bottom’ for legitimization on substantive normative grounds for global governance institutions. Buchanan and Keohane (2006) define a minimal moral acceptability as conformity with basic human rights principles. In this argument, human rights are acknowledged as the basic norms that the global community agree on. In other words, human rights norms are universal and cannot be contested on a communitarian basis. Therefore, conformity with these principles provides the main source of legitimization for various agents of global governance.

Buchanan and Keohane offer a broad framework of legitimization on normative grounds. However, the EU’s stance on human rights goes beyond conformity with universal human rights standards. The Union also claims to support and promote universal human rights in conflict territories which develop a further commitment beyond conformity (Diez and Manners 2007). Moreover, the normative framework that the EU relies on is wider than what minimal moral acceptability requires. Besides persistent reference to upgrading human rights, a set of other EU principles refers to fundamental norms such as democratisation, development, minority rights promotion and social and economic welfare which are considered as ‘global public goods’ by the EU (Nye 2002). Relying on a cosmopolitan understanding of norms, this commitment gives the EU the opportunity to justify its actions through the principles and norms; and also, it “provide[s] insights into how the EU as a foreign policy actor may be conceived” (Aggestam 2008: 6).

In view of this wider sources of legitimization through norms and principles, it is crucial for the EU to not only conform with human rights as minimally agreed universal values, but also to rely on a framework as comprehensive and consistent as possible in order to generate legitimization through norms and principles. The EU certainly draws on norms and values when constructing a role model or an example to emulate especially when the EU justifies itself by emphasising ‘utility-, value- or rights-based arguments’ (Lerch and Schwellnus 2006: 306). Given the EU’s own high standards regarding respect for norms, legitimization through norms and principles relies on to what extent the EU regards consistency and coherence of the broad normative framework.

Different normative priorities and ensuing inconsistencies among the EU member states complicate the EU’s efforts in ensuring a comprehensive and consistent normative

framework. Inconsistencies and double standards are likely to generate local resentment rather than support for the EU framework. Therefore, argumentative coherence and coherence between discursive justifications are key factors when analysing the legitimisation of EU conflict resolution engagements. '[I]f "double standards" remain unjustified they constitute a major incoherence and therefore a severe challenge to the policy's legitimacy' (Lerch and Schweltnus 2006: 306). As a result, when 'different EU bodies or member states advocate incompatible policies, the legitimacy of the Union's efforts to persuade external states to adopt any of the policies will be severely impaired' (Lerch and Schweltnus 2006: 308). Consistency over time and between different conflict resolution engagements would ensure credibility, and thereby local support for EU framework. Hence, the existence of consistency and the absence of double standards are more central when analysing the legitimisation of EU framework rather than the mere presence of global norms and values within the EU framework.

The second type *legitimation through local ideas/ideologies* is related to empirical aspects, i.e. local acknowledgement, adaptation and internalisation of the EU framework. Apart from a consistent normative framework that underlines the 'rock bottom' of the EU's legitimisation process, broad convergence between the normative standards and goals of the EU and locals are important in generating diffuse support. Rules and norms set by the external facilitators do not have an automated ability to transform conflict-enhancing structures to reconciliation within conflict societies unless these norms are internalised by local stakeholders. Lavenex and Schimmelfenning (2009: 804) note that "third-country actors are more likely to accept modes of external governance that resonate with their domestic institutional structures – to the extent that these are seen as 'normal' and legitimate". Legitimation through local ideas/ideologies allows us to focus on the local 'input' of discursive and ideological nature that generates diffuse support for the EU framework from local stakeholders. Legitimation through local ideas/ideologies asks the question how well the EU as a framework lends itself to local diffuse support by adoption or re-interpretation and tailoring of the EU's normative agenda through subjective evaluations and whether and why the EU framework is promoted or challenged from local actors' point of view.

In this sense, the compatibility between EU-promoted norms and universal values that initiates and sustains the EU agenda and 'value patterns' of the audience is central to legitimisation through local ideas/ideologies. Stillman defines value patterns of the society or system under question as 'specification, ranking, and ordering of that which the society

seeks and esteems'. Particularly they are the 'generalised criteria of desirability, the standards for evaluation, the normative priorities for the society' (Stillman 1974: 40). Value patterns refer to unwritten values as well as legal principles, institutions and rules without any claim of being universal. They represent local norms that define the societal structures in the conflict zone and occupy a place between shared public perceptions and worldviews of the society and broader moral and legal principles.

Legitimation through local ideas/ideologies can be studied by analysing if the general norms and principled framework of the EU's conflict resolution agenda is perceived by the majority of local groups as emancipatory, impartial, consistent and balanced (but not neutral) towards local communities. Under these conditions, local groups are likely to maintain diffuse support for the EU framework; whereas, when there are incompatible discrepancies between the norms and values that the EU upholds when it sets goals and the normative priorities accepted by local actors, the local groups are likely to generate alternative normative arguments that endorse value patterns of the local stakeholders and put pressure on EU-promoted norms and values.

Hence, legitimation through local ideas/ideologies is closely related to the normative consensus among various local actors which enables broad diffuse support or rejection of the EU's normative goals and values. However, since 'the local' is composed of different groups, it is more likely for the EU to face conflicting ideas/ideologies at the same time. What becomes important is how local groups substantiate their claims in terms of (in)validating the EU framework through alternative normative arguments and the dominant positions within local groups.

One caveat is in order. Legitimation through local ideas/ideologies does not put local values/norms framework in stark contrast to the EU's normative framework of conflict resolution as 'European', 'western' or 'universal' values in an essentialist understanding of culture and value patterns. In fact, values and norms can be shared; and, they are open to change and influence. However, norms such as democracy, development and the rule of law does not exist 'beyond culture' that 'can be somehow added to an existing culture by the simple expedient of creating formal structures and rewriting constitutions and statutes' (Brooks 2003: 2285). Local groups might rank and esteem some values more than the others, and their value system might not converge with the EU's normative priorities. Furthermore, each society is free to decide and deliberate its own value patterns which might be altered in the long run and converge with the values of external actors. Recalling Suchman's definition (1995: 574), legitimacy is a result of 'a generalized perception or

assumption that the actions of an entity are desirable, proper, appropriate within some socially constructed system of norms, values, beliefs, and definitions’; therefore, paying attention to the local culture and value patterns reveals the normative convergence between the local and the EU framework or adaptation of local and EU norms for better fit.

To give an example, in closed and long-term isolated societies such as Kosovar and Turkish Cypriot, local business culture is based on acquaintances and family relations which usually engender criticisms of the EU’s economic development and welfare agenda which is market-oriented. The hard question for the EU is to whether such irreversible interventions and social engineering against the local cultural practice are really central to the requirements of conflict resolution and whether such measures should be imposed against the norms that the locals value (Paris 2004). In short, it is important that relevant value patterns of the society within which the EU sets its policies is affirmative of the EU’s normative stance for generating and maintaining diffuse support for the EU framework. Legitimation through local ideas/ideologies assesses these subjective evaluations of the EU as a framework or as a constellation of norms and principles by local groups. It addresses the convergence in terms of ideas, norms and principles promoted or represented by the EU and locals in granting diffuse support for the EU.

The third category, *legitimation through participatory and procedural qualities*, refers to the quality of the implementation process of the policies and decisions of the EU, and thereby, is concerned with the local specific support. It constitutes a crucial aspect of legitimation since it enquires ‘what goes on inside the “black box” of the political system’ (Schmidt 2010: 7). According to Chesterman (2004: 1), within the context of conflict resolution, participatory and procedural qualities are concerned with the “benevolent foreign autocracy”. Legitimation through participatory and procedural qualities revolves around the ‘responsibility for public justification’ by various representations of the EU during the process of policy-setting and implementing. Therefore, legitimation through participatory and procedural qualities asks how the EU policies or institutions on the ground are promoted in order to gain specific support.

For instance, the democratisation objective in conflict resolution for a sustainable settlement of conflict has been on the EU’s agenda for a long time. The normative argument which foresees democracy promotion is, however, not sufficient to legitimate the EU. Even if democracy is promoted as a normative value and even if it is a shared objective of local groups, the way in which the EU operate to support democratisation matters. It is important that the EU implements specific democratisation policies with the

participation of local authorities and acts in accordance with the democratic principles of accountability and transparency through its ground representations. If the EU prioritises efficiency too much over consultation with local stakeholders, it is likely that locals will be isolated from the process because they may feel disempowered and disenfranchised with too intrusive and closed EU policy-making/implementation. As aptly stated by Higgott and Erman (2010: 461), “[e]nhanced institutional structures which ensure inclusive, free, symmetrical and non-coercive discussion would reduce key elements of the power asymmetries”.

Therefore, legitimisation through participatory and procedural qualities analyses if the locals are given an opportunity to convey their demands, needs and preferences to the EU and if the quality of the decision-making and implementation processes of EU governance is improved through accountability, transparency and participatory assets. Legitimation through participatory and procedural qualities does not require direct power over the EU rule-setting and implementation; but it evaluates the local support for specific EU bodies on the ground through looking at the inclusive process of consultation in the decision-making and implementation phases and the answerability of EU’s special agents on the ground. Therefore, legitimisation through participatory and procedural qualities requires two procedural credentials: first, open and uninterrupted channels of deliberation/communication between the EU and local groups; and second, accountability and transparency for ground agents of the EU.

Recalling the centrality of arguing and communication for legitimisation in a sociological-contextual approach, direct and open channels of communication and consultation between the EU and local groups are meaningful, only if they are continuous because “stakeholders’ preferences are not fixed in advance but are formed during the process of standard-setting and decision-making” (Take 2012: 223). The process of continuous involvement of local groups in institution building and societal transformation includes extended periods of bargaining between the EU and various local actors (Narten 2009). Over the long term, in the absence of continuous interactions between the local groups and the EU, locals would like to open up a discussion on the terms of EU decision-making power over local authorities. During this process, the EU might be under enormous pressure to remain relevant and credible or to change some strategies in order not to lose grip on the ground.

In this sense, continuous communication and consultation enhances authority- and burden-sharing between local groups (especially the government and civil society) and the

EU in the policy-setting and implementation phases. It strengthens the local ownership and transferral of technical and legal expertise of the EU to the local institutions. In this sense, the presence of participatory qualities and accountability of the EU bodies also impregnates the local groups' perception of the outcomes as fair and balanced (Higgott and Erman 2010)²⁰.

Usually, political leaders have more direct, formal and guaranteed channels of deliberation with the EU, whilst non-state organisations and individuals have to pressurise the EU to make their preferences and expectations to be taken into account. Therefore, open and uninterrupted deliberation does not only refer to formal bodies of consultation between local governments and the EU; but also to informal channels of opinion-formation, organised demands from local groups in the form of interest group campaigns, citizen protests and petitions or recourse to more legal areas of complaint (ombudsperson or litigation). Various local groups employ such informal channels in order to demand more information about the on-going process and betterment of the existing participatory mechanisms.

Furthermore, legitimization through procedural and participatory qualities is concerned with the accountability and transparency of the EU representations, actors and institutions which deal with day-to-day policy-setting and implementing. Accountability and transparency require an extension of inclusive decision-making to the phase of implementation. Thereby, these principles ease the structural inequality between EU agents endowed with implementing power and local stakeholders. Accountability is defined as "the process through which an organisation commits to respond to and balance the needs of stakeholders in its decision-making processes and activities, and delivers against this commitment. Accountability involves the acknowledgement and assumption of responsibility for actions and being answerable for resulting consequences" (Palm 2010: 8). Put simply, accountability means that "policy actors are responsive and can be held responsible for output decisions" (Schmidt 2010: 7). According to Buchanan and Keohane (2006: 428), "[i]nstitutional actors must offer public justifications of at least the more

²⁰ T. R. Tyler's focus on procedural qualities of legitimization of leaders in psychological studies as well as Zelditch's sociological approach to legitimacy also support that individuals are more motivated to submit themselves to the orders of leaders or managers and likely to feel satisfied with outcomes of decisions taken by them if fair procedures and treatment are applied throughout the implementation Tyler, T. R. (1990). Why people obey the law. New Haven, Yale University Press. Similarly, Sociological legitimacy theories argue that procedural qualities establish more stable ground for legitimization than presence of rewards or negative sanctions at the end of the implementation Zelditch, M. (2001). "Processes of Legitimation: Recent Developments and New Directions." Social Psychology Quarterly 64(1): 4-17.

controversial and consequential institutional policies and must facilitate timely critical responses to them. Potential critics must be in a position to determine whether the public justifications are cogent, whether they are consistent with the current terms of accountability, and whether, if taken seriously, these justifications call for revision of the current terms of responsibility”. In other words, accountability requires the EU to possess assignment responsibility to carry the burden of being in charge of the state of affairs (Parrish 2007).

Transparency is the accessibility of information about the institutional operations at a reasonable cost (Keohane 2011). It refers to the condition that information about the EU’s decisions and implementation process can easily be accessed and institutions and persons responsible for certain decisions can be identified by different local groups. Transparency ensures local civil society, the public and the media have no hardship to identify whether a policy that has failed to meet the demands and needs is attributable to the EU or the local government, especially when the EU bodies exercise overt decision-making and executive responsibilities (e.g. EULEX in Kosovo). In order to ensure accountability and transparency, it is necessary to set monitoring and sanctioning mechanisms for the EU agents on the ground (see Zürn 2004; Buchanan and Keohane 2006; Take 2012 for similar suggestions).

In short, legitimation through participatory and procedural qualities analyses extensive and continuous participation of locals into the EU’s decision making/implementation process through hybrid committees of local and EU representatives, formal and informal consultations on the one hand; and, public visibility and answerability of EU policies and institutions, on the other. Participation, evaluation, ability to respond to complaints and transparency about activities and decisions are the main components of legitimation through participatory and procedural qualities. Whether such mechanisms are available and the EU’s responsiveness to potential challenges during the implementation phase are important indicators when analysing legitimation through participatory and procedural qualities.

The fourth type, *legitimation through performance*, refers to the effectiveness and problem solving capacity of the EU. This type of legitimation asks what the consequences of EU conflict resolution policies are on the ground. According to Cerutti (2011: 125), performance legitimation “stands for the acknowledgement that the ideal or intentional conformity of an institution to a model of good governance does not suffice if it is not complemented by the condition that the institution or regime must give proof of its ability

to produce basic goods such as security, minimum well-being and legality”. In this sense, the capacity to deliver the committed result within reasonable time frame, “suitability and adequacy of existing resources” (Take 2012: 227), problem-specific expertise in conflict regions, and comparative benefit are considered as the major components of performance legitimization. The comparative benefit of an institution is defined as the ability of the institution to “produce results that are better than alternative feasible institutional arrangements, or their absence, could create” (Keohane 2011: 103). It refers to the performance of the institution/actor in relation to other alternative institutional arrangements.

Put simply, legitimization through performance studies the efficiency of specific EU actors on the ground in terms of delivering committed outcomes in a timely fashion and sustainable capacity to carry out their mandates. Local support for specific EU actors is called into question when another third party provides an alternative by offering greater or comparable benefits without excessive cost (Buchanan and Keohane 2006). However, utility satisfaction aspect of legitimization through performance is also related to the normative aspects of legitimization since performance efficiency is possible only when the institutions are able to deliver its main commitments and meet the basic expectations of the stakeholders (Cerutti 2011). And, benefits are not only material but can also be substantive such as economic and social security, development, providing guarantees and so on.

To summarise the four-part framework, legitimization through norms and principles is related to the EU as a framework and the diffuse support from locals for the normative principles, international rules and practices. Legitimation through norms and principles draws the initial and general borders of the legitimization of EU conflict resolution. It helps us analyse if the EU applies a meticulous selection of consistent norms and principles to ensure a sustainable, i.e. comprehensive and consistent, framework in its conflict resolution engagements. Legitimation through local ideas/ideologies is concerned with to what extent and how EU normative framework is accepted, altered or rejected by the alternative normative arguments of local groups. The third category, legitimization through participatory and procedural qualities, is related to accountability and transparency of EU conflict resolution agents in a specific case as well as the presence of open and continuous channels of communication and consultation for various local groups at the stage of making and implementing specific policies. Finally, legitimization through performance analyses specific support for the EU as a policy-actor in terms of meeting expectations and the needs of local groups as well as delivering output on the ground.

The analytical framework developed here involves mechanisms through which the EU can rely on genuine local support as a framework and as a policy-actor. Local support for the broad EU framework and specific actors and policies would generate and maintain credibility and authority for the EU conflict resolution agenda, whilst decreasing support would help us understand if and when the EU norms and priorities clash with local norms and priorities and how the EU can deal with local challenge and reform its conflict resolution outlook to maintain its grip on the ground. There are four key aspects of the legitimisation process: fostering initial consent through consistent normative arguments, taking local value patterns or local ideas/ideologies seriously in order to not create a duality between the EU agenda and local demands, offering genuine local participation, and finally generating benefits that are needed and expected by local stakeholders.

The model draws upon the conceptualisation of legitimisation beyond state, especially, a sociological-contextual approach as discussed in the previous chapter. In this analytical framework, each pathway in the analytical framework is related to the others. Namely, the persistent problems in one pathway cannot be compensated by the others in the long term. The analytical framework offers a comprehensive account of local support for the EU based on normative-empirical fusion and diffuse and specific support. Overall, the EU's legitimacy is conceptualised a process of legitimisation instead of being an absolute value as legitimate and illegitimate.

Two important components of legitimisation might seem missing from the framework proposed here: one for the realist and one for the philosopher. The former might claim that *coercion* or *material power* is what determines authority given the embedded power politics at the international level. The realist would also claim that it is necessary to accommodate the strategic interest of local actors and the EU between the contradicting pull of morality and legality as well as interest maximising behaviour when analysing the legitimisation of an international actor. The answer to this criticism is that coercion is certainly not the only way of social control and establishing authority. The realist fails to differentiate between compliance/cooperation and legitimacy. Firstly, coercion exists as one of the options to generate compliance together with legitimacy (embedded in local support) and pure self-interest. Legitimacy is created, used and lost as a source of authority, power and order (Beetham 1991). Legitimacy of authority involves not only getting the others to do what they otherwise would not; but also, telling the others 'the right' thing to do. A given governance system is legitimated when groups and people falling under its authority recognise and accept it as the right and competent body of

decision making and implementation; and as a result, endorse its decisions, comply and cooperate with it. In other words, coercion is not a source for legitimation, but it is one option to secure obedience, ergo compliance. Moreover, coercion or material power is likely to create resentment and non-compliance in the long term, contrary to compliance based on local consent and support. However, authority deriving from local societal support works at the basic level by providing social purposes and meanings, having power to regulate and constitute the policy area that the actor is engaged in. “Governance arrangements tend to survive more easily and to operate more smoothly when they have the endorsement of the publics they regulate” (Scholte 2011: 111).

Secondly, interest and strategic concerns of the locals are not excluded from the framework proposed here. Rather than standing completely disparate from rational calculations of the local groups, the framework persistently refers to the particular political context between the EU and local actors in a conflict setting. ‘*Politics*’ comes into the picture first, when the EU engages in justificatory discourse and action to make its conflict resolution agenda accepted and supported by the local groups. The analytical framework does not eliminate the possibility that EU’s normative arguments and actions can co-exist with strategic concerns and self-interest oriented actions (recalling Cipriani (1987), even cynical claims and justifications shape the legitimation process). Second, ‘politics’ are relevant when norms and ideas that are proposed by the EU are ‘interpreted, developed, reconciled, transcribed, and consensually mediated’ (Clark 2005:4) by the locals as a part of local template, i.e. ideologies, perceptions, attitudes and preferences.

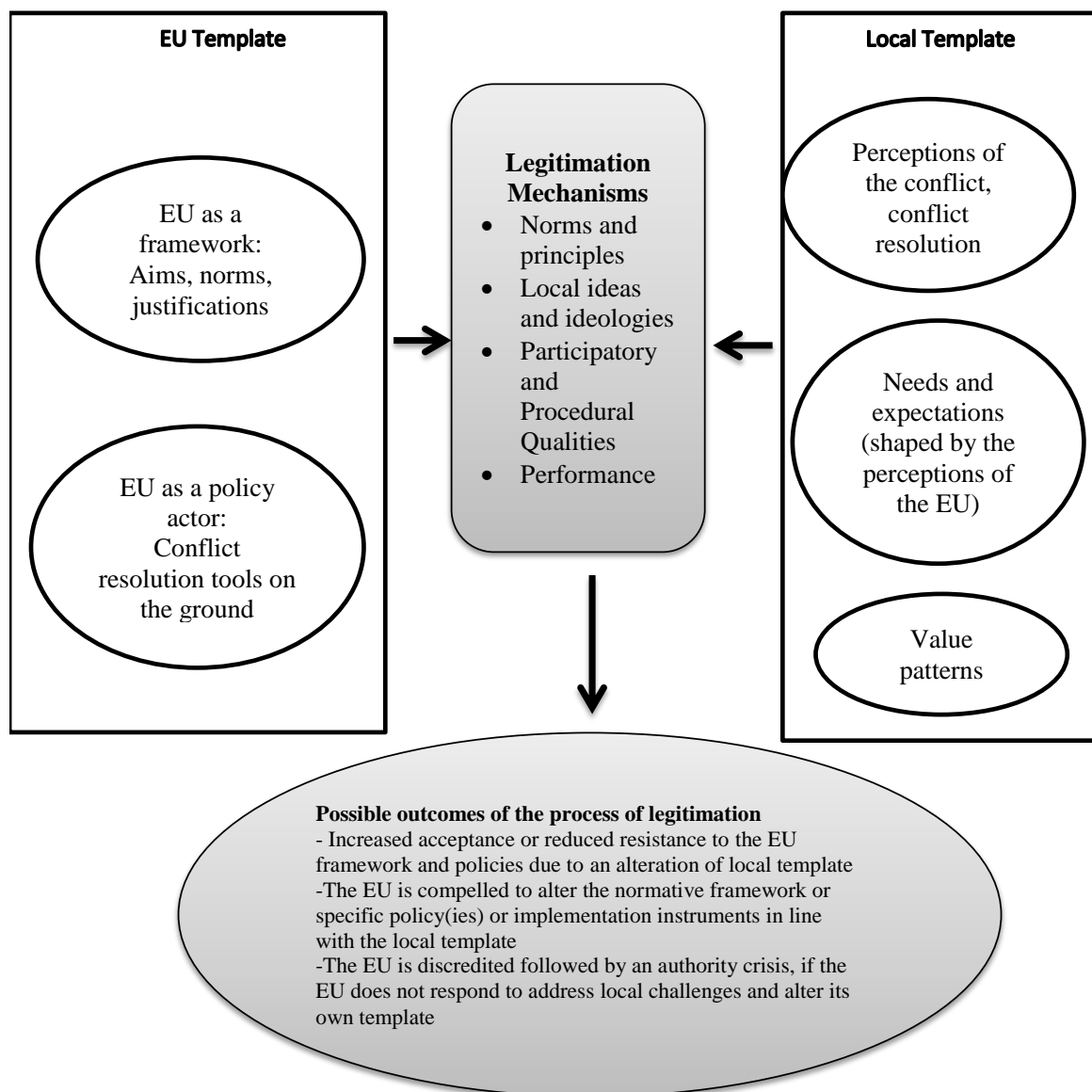
On the other hand, the philosopher would argue that the framework falls short of acknowledging legitimate as just, moral or fair authority. Justice and fairness have always been conceptualised in universalistic terms; and it is not a rare occurrence that morality or justness are considered as the main components of legitimation in political philosophy (e.g. Rawls 1972). However, defining the borders of what is just and fair is certainly beyond the limits of this study. As Buchanan and Keohane (2006: 412) aptly state “[t]o mistake legitimacy for justice is to make the best the enemy of the good”. Moreover, there is already ‘sufficient disagreement’ on what constitutes just authority. Equating legitimacy with just and moral restrict an empirical study of legitimation. According to Hurd (2007: 33) “[i]n setting justice aside we give up the ability to answer certain important questions, but we gain the capacity to understand legitimacy as a mechanism that produces one kind of social order and that affects the motivations of individuals [or actors] in a social system [the international system]”. Therefore, legitimation is conceptualised more context-

dependent and fleeting within this framework, but also more analysable for the researcher and possible to achieve for the actors and institutions like the EU.

3.4 The Process of Legitimation

Recalling Zelditch's argument (Section 2.6.2.2) that legitimation is an auxiliary process to other social processes which determines increasing acceptance or diminishing resistance to an authority, and constitutes a pressure for reallocation of incentives or pushing for alteration of principles and norms (Zelditch 2001: 5), it is important to place the framework of legitimation within a broader process shaping and altering EU and local templates of conflict and conflict resolution.

The figure below demonstrates the intersubjective process of legitimation between the EU and local groups, as conceptualised in this thesis. In this simplified illustration, the legitimation process has four related pathways as explained above. The process of legitimation is shaped by the constant exposure of self-justifications and policies of the actor (EU template) and values, attitudes, actions and perceptions of the local actors (local template) to each other. A rule or policy maker may claim legitimacy on various grounds and may "perform actions and enter into relationships in order to gain it". But what is important for the researcher is to disclose the characteristics of the rule- and decision-making authority and its relations with the addressees of its policies by looking at the social support and acceptance, and "more particularly in the reasons for that acceptance" (Black 2008: 16).



Therefore, the process of legitimation generates ‘social credibility and acceptability’ for the EU that its actions “are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions” (Suchman 1995: 574). As a result, when we analyse the legitimation process for the EU, we can identify three possible outcomes:

- Increased acceptance or reduced resistance to the EU framework and policies due to an alteration of local template.
- The EU is compelled to alter the normative framework or specific policy(ies) or instruments in line with the local template.

- The EU is discredited followed by an authority crisis, if the EU does not respond in a way to address challenges to alter its own template²¹.

The process of legitimation as depicted here describes a simplified understanding of a complex continuous relationship and the ‘push and pull’ between the EU and the locals. These three outcomes are not expected to develop through a standard process in each conflict resolution engagement of the EU. It is worth highlighting that local audience is not uniform; and usually different groups hold different relations and will to engage in the EU decision-making. As a result, support of various groups depends on their demands, perceptions and needs as well as the quality of the communication with the EU. In other words, how and under what conditions the legitimation process affects EU conflict resolution in specific cases results from the way in which the four legitimation pathways shape against the EU and local template in the conflict cases.

3.5 Conclusion: EU Conflict Resolution and Properties of Legitimation

This chapter has developed an analytical framework to be applied to two case studies in the following chapters. The relationship between various self-justifications of the legitimacy-seeking EU and local support constitutes the main principle of this analytical perspective (Bernstein 2011). Legitimation process is concerned with the relationship between the one-sided justifications that the EU generates and the local groups’ support for the EU framework and policies in light of the consistency of the EU arguments and actions, local value patterns, participation into EU rule/policy-setting and satisfaction with the outcomes of policies.

Based on the previous discussion on approaches and theories of legitimation, the framework is designed to allow a detailed analysis of the interaction between the EU and various local actors which, in turn, explains the latter’s reasons for acceptance, rejection and challenge for the EU’s authority and role in conflict resolution. The framework is based on the assumption that legitimation reveals social and political characteristics of the EU as a conflict resolution actor ‘on the ground’. Local diffuse and specific support for the

²¹A crisis, in this sense, is defined by Reus-Smit as the situation in which ‘the level of social recognition that its identity, interests, practices, norms, or procedures are rightful declines to the point where the actor or institution must either adapt (by reconstituting the social bases of its legitimacy, or by investing more heavily in material practices of coercion or bribery) or face disempowerment’ (2007: 158).

EU is the fundamental touchstone to remain just, relevant, credible and effective as a conflict resolution actor.

In this sense, the chapter has first argued that the legitimation process is concerned with maintaining a delicate and often pragmatic balance between normative-empirical sources and diffuse-specific support for the EU. Then, the framework has offered four potential paths of legitimation for EU conflict resolution. This framework pays special attention the peculiarities of the EU and conflict resolution field to assess intersubjective understandings, shared processes, formal and informal consultations between the EU and local groups, and finally accepted outcomes.

Different from the existing one-sided normative power arguments and explanations based on the availability of some structural factors (e.g. the coordination and material capabilities of the EU), this framework focuses on the societal power that legitimation generates and considers the complex interaction between local groups and the EU as a significant factor shaping EU conflict resolution. Therefore, legitimation is considered as a practice which is only possible to analyse and understand when we are able to “move down from high-minded sloganizing (the importance of peace and security, of sustainability, of democracy and human rights, of global economy)” (Hurrell 2003: 277) to a genuine concern with the differences between the EU agenda or practices and local parties’ preferences and reactions.

Therefore, the study of legitimation for the EU is a necessary to understand the societal power of the EU in conflict zones. This power is essential for the EU as a conflict resolver in order to define problems of local parties, to specify and implement the right or appropriate kind of mechanisms for conflict resolution. The absence of societal power would not only mean instability in its international environment for the EU, but also decaying credibility for its role and values as a conflict resolver.

The next chapters apply this general framework to the Kosovo and Cyprus cases to empirically discuss these patterns of legitimation.

Part II

Chapter Four –Analysis of EU Policies and Justifications in Kosovo

This chapter enquires several areas of the EU's engagement with Kosovo conflict by looking at ideational/discursive justifications and policy tools that the EU uses to address local groups in Kosovo. The chapter investigates on which arguments or justificatory frames the EU relies on when engaging in the legitimisation process in Kosovo. The chapter also aims at analysing how the EU links its discursive/ideological justifications and policies in Kosovo.

In line with the analytical framework developed in the previous chapter, the chapter aims to assess the EU's overall engagement by placing the EU conflict resolution template within the broader context of international involvement in Kosovo and the Union's policy towards the Western Balkans. This assessment would serve three purposes: (i) clarifying how the EU affects the legitimisation process by consciously presenting its own template vis-à-vis the international and regional context (ii) identifying dilemmas and incoherence embedded in the discourse and policies of the EU (iii) understanding how and why the local template differs from the self-justifications of the EU as addressed in the next chapter.

This chapter is comprised of two sub-sections. The first section analyses ideational or discursive aspects of the EU's self-justifications. The second section turns to discuss the three main policy tools of the Union: the Stabilisation and Association Process and Kosovo's EU integration, the rule of law mission EULEX, and decentralisation.

4.1 The EU as a Framework: Universal Norms and Justifications

Since 1999, Kosovo has occupied a special role, a standardised reference point in identifying and facilitating the EU's role and capabilities as a conflict resolver and a model not only in the scholarly literature but also in the formal narrative of the Union. The Kosovo crisis can be considered as the starting point of the EU's claims that shaped much of the initial discussion on the EU foreign policy cooperation as well as the EU's increasing importance as a framework in terms of state building and reconciliation, a role model, and a force for stabilisation in its neighbourhood. Put differently, the EU's reliance on NATO for a military intervention to stop the brutal aggression of Serb forces against

Kosovo Albanians revealed institutional shortcomings and inadequacies of common military capabilities of the member states facing a humanitarian crisis in the neighbourhood and provided a major push for improving cooperation in defence areas in Europe (Haine 2004).

This section analyses how the EU has utilised the international context, changing perceptions of conflict and conflict resolution of the international community and the increasing cooperation in foreign in order to generate a normative framework for its actions in Kosovo. While the EU was also concerned about regional stabilisation and increasing immigration of Kosovo Albanians in Europe, it has mostly relied on this normative framework to justify its increasing engagement in Kosovo.

4.1.1 Humanitarian Concerns: Breaching the Existing Rule, Writing a Higher Order

For more than fifteen years now, the protracted conflict in Kosovo represents more than a struggle over a small territory between the Albanian and Serbian inhabitants. From the very start, the international community had to deal with deeper issues such as the redefinition of the fundamental principles of the international system that the EU wants to be a part of. In this sense, conflict resolution in Kosovo has become a symbol of the evolution of the concept of sovereignty, governance, human and minority rights, conflict resolution, supervised independence of a disputed state and the issue of legitimate engagement within and outside the UN system.

The entire process of conflict resolution in Kosovo was initiated by an unauthorised (due to Russia's veto in the UNSC) NATO military campaign in 1999 (Weller 2009). The unauthorised intervention, however, is justified through a complex set of arguments based on emerging norms of the international community and principled military action (such as a belligerent occupation motivated by humanitarian concerns and responsibility to protect) (Chandler 2010a). Due to the grave humanitarian crisis in Kosovo, NATO allies aligned their campaign against Serb forces in Kosovo with 'good intentions' to save Kosovo Albanians from further mass killings. According to the mainstream argument, a military intervention even without a UN authorisation would be just and ethical, since Serb forces under Milosevic rule did not respond to diplomatic and economic sanctions of the international community before 1999 (Wolff 2003). As a result, the only option for NATO allies was to stop the violence immediately and to devise a

roadmap for the democratisation and development in Kosovo which had been long ignored by Serb dominated former Yugoslavia.

In justifying the departure from the traditional principle (i.e. non-intervention) of the international community, NATO allies argued that humanitarian concerns, individual and group rights are more important than sovereign rights in the event of brutal use of force against a state's own constituency (Weller 1999). The initial military intervention and the following international administration is defended by an argument that sovereign rights of a state could be suspended by an external force, if the state fails to respond to the warnings of the international community and violates the basic rights of its population (Williams 1999). In this sense, Kosovo conflict for the NATO allies, including the major EU member states, has become a test case for a re-conceptualisation of the traditional sovereignty principle. Namely, putting Kosovo under international administration after the military action is promoted as a novel approach towards ethno-national violence and an illegal but 'legitimate' departure from a number of principles such as non-intervention and sovereign rights that traditionally bind the international community together.

In the aftermath of Kosovo intervention, the EU has quickly adopted this new understanding of humanitarian action and responsibility to protect as one of its main foreign policy principles (Howorth 2000; 2007). When asserting the necessity of its own presence in Kosovo, it relied on NATO allies' humanitarian justifications and moral arguments. Namely, the EU like the rest of Western community built a claim on the right to individual security of Kosovo Albanians in order to dismiss the accusations of illegal and illegitimate action and to justify taking part in United Nations Interim Administration Mission (UNMIK) following the separation of Kosovo from former Yugoslavia. In line with the primary reasoning of NATO allies, the EU was ready to assume a responsibility in Kosovo guided with 'a duty of solidarity' (Muguruza 2003: 242). For instance, the statement by the European Council issued in March 1999 emphasised the 'moral' and 'legitimate' reasoning behind the intervention into the humanitarian disaster 'in the middle of Europe' as the main underlying logic of the EU's presence as a part of UNMIK²². The Presidency conclusions noted that

[t]he international community has done its utmost to find a peaceful solution to the Kosovo conflict. On the threshold of the twenty-first century, Europe cannot

²² Council (1999). European Council Presidency Conclusions 24 March 1999.

tolerate a humanitarian catastrophe in its midst. It cannot be permitted that, in the middle of Europe, the predominant population of Kosovo is collectively deprived of its rights and subjected to grave human rights abuses, we, the countries of the European Union, are under *moral obligation* to ensure that indiscriminate behaviour and violence, which became tangible in the massacre at Racak in January 1999, are not repeated. We have a *duty* to ensure the return to their homes of the hundreds of thousands of refugees and displaced persons²³.

Such an EU approach was unprecedented in the Western Balkans region when the previous crises broke out in the former Yugoslavia. In this sense, the ‘responsibility to protect’ principle provided a fresh cause for the EU to justify its support for NATO which, at least initially, side-lined the UN Security Council (UNSC). As a result, the EU claimed a role to be an integral part of the moral and legitimate international effort to build a new future for Kosovo since 1999.

Furthermore, a moral reasoning was broadly utilised to justify the EU’s identity as an international actor after the Cold War in order to replace ‘the vacuum of Europe’s nameless 1990s’ (van Ham and Medvedev 2002: 1). During the developmental stages of CFSP/ESDP at the dawn of the Kosovo crisis, the EU wanted to ‘write new normative rules’ of its fledgling conflict resolution policy, especially with reference to the international legal, institutional, regulatory, interventionist but ethical principles in order to assert itself firmly as an international actor (Howorth 2007: 54-5). The standard academic and formal narratives commonly argue that the Kosovo intervention and the following international administration provided the Union with a new symbol of the EU’s growing international presence which has been built upon a claim to uniqueness and principled actions. For instance, Van Ham and Medvedev (2002) notes that ‘*idealpolitik*’ not interest oriented *realpolitik* has become the driving force of EU involvement in Kosovo. Moreover, these narratives also emphasise that the humanitarian crisis in the wake of violent ethno-political catastrophe in Kosovo revealed the lack of EU military capabilities and ability to reach quick and common decisions among the member states, and thereby, delivered a ‘wake-up call’ for Europeans to develop their common foreign policy (Toje 2008).

²³ Ibid.

In this sense, the rapid leaning of the EU's developing foreign policy towards conflict resolution field after the Kosovo intervention, although partially pushed by the external pressures²⁴, was also promoted as a result of humanitarian responsibilities of the EU in line with the international community's developing principle of responsibility to protect. The principles that justified Kosovo action and the international administration also provided the EU with a discursive frame to 'carve something akin to *raison d'état* out of the values' (Toje 2008: 126). As a result, much emphasis was placed on 'value rationality'²⁵ during 2000s, rather than 'instrumental rationality' when constructing a justifying discourse for both the EU's continuing engagement in Kosovo under UNMIK and fledgling actorness in the conflict resolution field.

In short, the EU's interest in taking part in the Kosovo conflict resolution is first promoted as a moral and ethical duty in the first instance. Up until today, ethical considerations and moral obligation has served as a standard reference point justifying the EU's continuing involvement in Kosovo. The reference to normative objectives and action is still used after Kosovo's independence as the EU has become the main conflict resolver. The moral/normative justifications have also played a fundamental role in constructing an identity for the EU's international actorness to upgrade the Union from being an 'impotent actor' to an active conflict resolver (Shepherd 2009).

The justification based on the international principles of humanitarian intervention and responsibility to protect does not only address the local groups in Kosovo. In fact, this argument is used to define and justify the EU's expanding conflict resolution engagements as a part of the international community. As the next section discusses in detail, the EU has continuously constructed other justifications based on normative arguments targeting the local audience.

²⁴ The acceleration of cooperation during 1990s was also due to other reasons: the new international and strategic conditions, especially after the Cold War which were mainly determined by external factors such as redefinition of the US security concerns away from Europe; and restructuring NATO's role as a security provider after '*the communist threat*' ceased and the changing perceptions of the international community towards the use of force, state sovereignty and conflict resolution. See Howorth, J. (2004). "The European Draft Constitutional Treaty and the Future of the European Defence Initiative: a question of flexibility." *European Foreign Affairs Review* 9(4): 493-508.

²⁵ Value rationality for an actor means that 'an action is undertaken for what one might call reasons intrinsic to the actor, 'involving a conscious belief in the absolute value of some ethical, religious, aesthetic or other form of behaviour, entirely for its own sake and independently of prospects of external success' (Toje 2008: 126).

4.1.2 Targeting the Root Causes of Conflict: State-building and Democratisation

As a part of UNMIK, the EU shouldered the responsibility of economic reconstruction until 2008. However, especially between 2005 and 2008 during the Vienna status negotiations for the future status of Kosovo, the EU's role evolved towards a deeper commitment. In fact, the EU added another dimension to its ethical/moral framework based on humanitarian justification after 2005 (Dzihić and Kramer 2009). This dimension is the long-term and holistic engagement in Kosovo's future by reconstructing state and promoting democracy which constitutes one of the defining features of the EU conflict resolution framework today. The EU claims that its extended involvement in Kosovo in the post-independence period (after 2008) aims at addressing the root causes of instability in Kosovo such as discrimination based on religious or ethnic origin, lack of representative institutions and underdevelopment (Paris and Sisk 2009). In this sense, the EU has employed a discursive frame referring normative objectives, methods and outcomes while justifying its long-term engagement in Kosovo.

First, in terms of its 'objectives', the EU claims that its aim is to build a sound state based on good governance in Kosovo. The long term EU goal is "transforming the society by strengthening human security and addressing fundamental grievances, horizontal inequalities and other root causes of conflict" (Rocha-Menocal 2010: 3) with an aim to create "sufficiently strong and effective formal institutional frameworks" which are capable enough to meet the demands of local communities even in the absence of external support in Kosovo (Rocha-Menocal 2010: 2). In this sense, the EU defines the improvement of liberty, democracy and human rights, norms which inspired the EU integration, as its main objectives. By building effective, responsive and capable state institutions in Kosovo, the EU claims that several causes of instability can be eliminated, because instability arises from perceptions of injustice and deprivation of humans from basic needs within a society.

Second, the EU constructs a special reference to the 'methods' for achieving its main objectives. Long-term engagement means that the EU would exercise an asymmetrical control of decision-making and policy implementation vis-à-vis the elected Kosovo government. However, at the forefront, the EU's long-term and interventionist policy is justified with a reference to the methods of involving local actors such as responsive state-building which places local ownership at the centre both as a means of building local state capacities and as an end in itself (Wyeth and Sisk 2009; Rocha-

Menocal 2010). In relation to Kosovo, the EU has developed a clear local ownership commitment, starting from the early years of Vienna negotiations. For instance, a joint report by the then High Representative Javier Solana and the Enlargement Commissioner Olli Rehn stated that “the EU should consider increasing its support to the PISG [Provisional Institutions of Self-Government] for institutional capacity-building. This could be *shared with other international partners* (e.g. the OSCE, Council of Europe)”²⁶. When the EU was nominated as the main conflict resolver during the Vienna negotiations by the international community, the EU stated its intention to replace the unaccountable practices of UNMIK as it would take over the responsibilities from the international administration after Kosovo’s independence. In another joint report on the future EU Role and Contribution in Kosovo, Solana and Rehn noted that

[w]hatever the outcome of the status, Kosovo will require for some time a continued international presence. The EU is likely to play a leading role together with international partners. *The future international civilian presence after UNMIK shall, however, not be EUMIK*²⁷.

More clearly, the EU committed itself to a qualitatively different presence compared to the previous international administration by promising not to repeat UNMIK’s mistake of top-down control on Kosovo institutions. In this sense, Solana and Rehn declared that “building on UNMIK’s work and allowing for maximum local ownership, the EU will need to continue supporting Kosovo’s government in setting up a modern, open, market-oriented and business-friendly environment, based on EU-compatible structural reforms”²⁸. Similarly, during a public debate in 2008, the International Civilian Representative/EU Special Representative (ICR/EUSR) Feith noted that the EU mission exists in Kosovo not to administer but to advise and assist local authorities to govern their country²⁹. Again, the then Head of EULEX Yves de Kermabon declared that

²⁶ Solana, J. and O. Rehn (2005a). Summary Note on the Joint Report on the Future EU Role and Contribution in Kosovo. 14 June 2005.

²⁷ Here, Solana and Rehn address the uncomfortable Kosovo public which turned increasingly against interventionist UNMIK by stating that the EU does not aim to replace UNMIK but to share responsibilities with local authorities. Solana, J. and O. Rehn (2005b). Summary Note on the Joint Report on the Future EU Role and Contribution in Kosovo. 9 December 2005.

²⁸ Rehn, O. and J. Solana (2006). Summary note on the joint report by Javier Solana, EU High Representative for the CFSP, and Olli Rehn, EU Commissioner for Enlargement, on the future EU Role and Contribution in Kosovo. 17 July 2006, MEMO/06/286.

²⁹ Koha Ditore, 19.03.2008, ‘Feith: We are not here to administrate or govern but to advise’.

After independence, we are engaged in local ownership and accountability. This implies that the Government of Kosovo will be charged with addressing problems and will be responsible for what happens. We are here to support the Government through monitoring and advising³⁰.

In short, the EU sought a justification on an explicit commitment that its intention was not to rule Kosovo on behalf of local people. Contrarily, the future presence of the EU on the ground would ensure local ownership, despite deeper and long-term EU involvement after 2008. The emphasis on 'local ownership' and 'cooperation with international partners' constitutes a vital part of the EU's justification in Kosovo.

Third, the EU follows a justification strategy based on 'outcomes' by emphasising that the end result of Kosovo's state-building process would be good governance in Kosovo with all its credentials- democratic representation, accountability, deliberation, inclusive political culture with civil society, trade unions and political parties, security sector reform and economic development through market principles. The outcomes used in justifying the EU's long-lasting engagement in Kosovo are promoted not only because they provide public goods, but also they accommodate the demands and needs of the local communities especially after the widespread disappointment with UNMIK (King and Mason 2006).

For instance, in order to generate inter-ethnic reconciliation and co-existence and support from the minority communities in Kosovo, the EU links state-building to civic identity building to replace ethnicity-based identity definitions through emphasising importance of a supra-ethnic identity in a Europeanised Kosovo. The EU particularly claims that at the end of its involvement representation and protection for minorities would be established. In this sense, Kosovo would become a part of the Western democratic, liberal nation-state where identity is not defined by ethnicity but through human security and citizen rights. It is worth noting that the EU has promoted these outcomes by persistently referring to its own values as examples, i.e. how member its democratic member states function as a role model to be emulated by Kosovo, so that EU conflict

³⁰ Koha Ditore, 13.03.2008, 'Kermabon: EULEX will expand throughout Kosovo in 120 days'.

resolution would lead to a robust relationship between the newly established state and the society³¹.

In short, with its expanding involvement in Kosovo conflict resolution, the EU has generated an additional discursive frame to justify its norms and principles. The Union emphasised normative objectives and methods as well as outcomes of its long-term engagement in Kosovo through state-building and democratisation. In doing so, it sought to differentiate its approaching conflict resolution engagement from the previous UNMIK which was highly unpopular due to its interventionist and unaccountable practices (King and Mason 2006).

4.1.3 Integration of Kosovo into the EU

Besides humanitarian reasons and normative objectives and methods of long-term conflict resolution, the EU relies on a discourse of ‘reproducing the EU beyond its borders’. After the UN Security Council Resolution 1244 (UNSCR 1244) brought an end to the war in Kosovo, the EU has committed to the stabilisation of the Western Balkans through ensuring integration of the countries in the region into the EU economic and security structures (Gordon, Sasse et al. 2008). This regional approach is promoted through the argument that the Western Balkans constitutes an integral part of Europe whose future and stability cannot be considered separate from peace in Europe. For instance, Solana noted that

This region [Western Balkans] continues to be the central test for the effectiveness of the Union’s foreign policy. And this precisely *because the Western Balkans are not ‘foreign’ to us but, on the contrary, intrinsically linked to our own destiny*. Our societies will not be truly secure as long as the people of the Western Balkans do not enjoy durable stability. Our overall economic potential will not be fully realised as long as the whole of the Western Balkans is not firmly on the road to economic reform and prosperity. And the vision of a genuinely united Europe will remain unfulfilled as long as the countries of this region have not joined the European mainstream³².

³¹ Author’s interview, Federica Domanini, ECLO, Pristina, May 2011.

³² Solana, J. (2000). Intervention by Javier Solana to the General Affairs Council. Public debate on Western Balkans. Brussels, 10 July 2000, Available at: http://www.consilium.europa.eu/ueocs/cms_data/docs/pressdata/en/discours/gac%2010.7%20en.doc.html.

As implied by Solana, Kosovo and more generally, the Western Balkans conflicts were conceived as an opportunity for the EU to reconfigure a region through expanding what is considered as Europe(an). Different from the East European countries' integration into the EU after the end of the Cold War (which was promoted as the 'return of 'the East' to Europe' where they actually belong), Kosovo and the broader region of Western Balkans had barely been considered an integral part of Europe throughout history and even attached negative connotations related to chaos, disintegration, and destabilising hostilities far from 'the civilised Europe' (Todorova 2009). This change in the EU's perception of the Western Balkans has allowed the EU to place Kosovo in 'the middle of Europe'³³ for the first time in history. The entire region which was once considered outside or at bay of Europe has become as a potential insider. The region is not yet fully European, but through incorporation of European values, it can become in the future. For instance, Solana claimed that the EU response to Kosovo crisis is a proof that Europe may finally mature into a common space- a space where "[e]thnic cleansing", mass deportations and executions, and systematic abuse of human rights have no place in today's Europe"³⁴.

By looking at these mainly norm-driven argumentations based on humanitarian concerns and international principles, democratisation and state-building for local ownership and the new perception of Kosovo as a 'potential' European, we can claim that the EU hardly mentions the strategic importance of stability in Kosovo for its own security. At least at the discursive level, the main justificatory source of the EU's broad ideational and normative framework has been a recurring emphasis on humanitarian and long-term developmental intentions and local ownership and Kosovo's place in Europe. The EU's framework rests on normative values such as international practice, ideas and norms as objectives and methods and a role model of governance and identity whilst strategic interests are barely expressed by the EU. In this sense, one can claim that with these discursive justifications, the EU has transformed itself into "a temporal rather than genuinely spatial category through the EU's ability 'to place nobody as non-European but everybody as more or less European, more or less close to the centre (of Europe and Europeanness)'" (Waeber 2000: 263).

The argument that Kosovo is central to Europe and the EU is committed to embrace Kosovo not only complements the EU's discursive 'framework' based on

³³ Council (1999). European Council Presidency Conclusions 24 March 1999.

³⁴ Solana, J. (1999) "Opinion/Editorial by the NATO Secretary General." NATO News Articles 22 July 1999.

humanitarian principles and long-term engagement through democratisation and development inspired from the EU's own experience, but it also conditions the actions and policies available to the EU in conflict resolution as the next section turns to analyse.

4.2 The EU as a Policy Actor: Conflict Resolution Tools on the Ground

The EU has developed three interrelated policy tools in Kosovo in collaboration with the international partners (the UN, OSCE and NATO) after 2008. First, the Union introduced the Stabilisation and Association Process (SAP) and related instruments of conditionality such as democratisation, economic development, institutional relations and subsequent European integration prospect for Kosovo. Second, in the post-2008 period, the EU has taken over the responsibility of 'supervision' of the new state from UNMIK and launched its biggest ESDP/CSDP mission in the rule of law area (EULEX) to reform the security sector and judiciary. Finally, in close collaboration with the International Civilian Office (ICO), the EU offers financial and technical support for power-sharing between communities at the central and local levels³⁵.

4.2.1 SAP Conditionality and Membership Prospect

The Commission introduced 'a European integration perspective' for Kosovo for the first time in the Communication named as 'A European Future for Kosovo' in 2005. The communication stated the EU's willingness to offer 'political contribution to resolving outstanding issues'. This document marks the beginning of a clear EU commitment for Kosovo's future integration into the Union.

Kosovo's integration prospect into the EU constitutes a part of the EU's broader regional approach towards the Western Balkans. It is important to understand this regional policy in order to understand the EU integration policy towards Kosovo as a tool of conflict resolution. The regional approach has been introduced in 1999 by the Commission as a proactive policy for conflict resolution. During the ongoing Kosovo crisis, the Commission stated that the EU was willing to 'accept responsibility' in the Western Balkans³⁶, and the Stabilisation and Association Process (SAP) was introduced as a part of this willingness to take active responsibility not only for Kosovo but for the broader

³⁵ Until May 2011, EU Special Representative acted as the head of ICO as International Civilian Representative (ICR).

³⁶ Commisison (1999). European Commission Resolution on Kosovo. C293, 13 October 1999. Brussels, Available at: <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:1999:293:SOM:en:HTML>.

Western Balkans region (Anastasakis and Bechev 2003; Knaus and Cox 2005; Renner and Trauner 2009; Shepherd 2009). The SAP aimed to introduce a coherent and comprehensive set of instruments for sustainable conflict resolution through the ‘added value’ of EU membership in the distant future³⁷. In this sense, the Commission stated that the SAP “is an ambitious strategy that helps the region to secure political and economic stabilization and to develop a closer association with the EU, opening a road towards EU membership once the relevant conditions have been met”³⁸.

In order to facilitate conflict resolution and ethnic reconciliation, the EU declared that the SAP would establish institutional relations between the countries in the region and the EU with an eventual membership perspective³⁹. However, this perspective is linked to an open prospect or as ‘a creeping process’. During this creeping process, the EU has committed to encourage local adjustment to certain policy sectors through short-term incentives (Renner and Trauner 2009: 454). The SAP is the only, rigorous, long term and sustainable policy approach’ directed to the Western Balkans region⁴⁰ and still remains the main ‘framework for the European course of the Western Balkan countries, all the way to their future accession’⁴¹. Solana (2000) expressed this point very clearly:

The EU offers a model as well as the instruments for peace through regional integration, for the reconciliation of former enemies and for the effective guarantee of human and minority rights. No other solution could offer such hope for the Western Balkans.

³⁷ Membership prospect for SAP countries was first introduced in 2000 Feira Council stating all countries in the region as ‘potential candidates for EU membership’. In 2003, the introduction of partnership agreements at Thessaloniki Summit marked the start of tangible pre-accession process for the region when DG Enlargement has assumed the responsibilities for relations with the Western Balkan countries from DG External Relations.

³⁸ Commission of the European Communities, The Stabilisation and Association Process and CARDS Assistance 2000 to 2006. European Commission Paper for the Second Regional Conference for South Eastern Europe, cited in Trauner, F. (2009). "Deconstructing the EU's Routes of Influence in Justice and Home Affairs in the Western Balkans." *Journal of European Integration* 31(1): 65-82.

³⁹ All countries in the region have concluded Stabilisation and Association Agreement with the EU: Macedonia in 2001 (with candidate status granted in 2005), Croatia, 2001 (completed negotiations and becoming a member soon), Albania, 2006, Montenegro, 2007, Serbia and Bosnia in 2008 except Kosovo without any further institutional links with the EU.

⁴⁰ Commission (2002). The Stabilisation and Association process for South East Europe - First Annual Report. *European Commission COM/2002/0163 final*

⁴¹ Commission (2004). Decision on the European Partnership with Croatia. *European Commission COM(2004) 275*.

In this sense, 'A European Future for Kosovo' stated that the same path offered to the Western Balkans is also open to Kosovo despite the contested independence issue and ongoing international administration⁴². More recently, the European Council reaffirmed the European perspective for Western Balkans as the final goal of the process in December 2007 and February 2008 meetings reiterating the importance of peace, stability and security in the Western Balkans for the Union⁴³. In 2009, Solana also noted that "we want the whole region, including Kosovo, to get closer and closer to the European Union. This is our aim, this is our objective and with that spirit we will continue working"⁴⁴. The EU expects that the opportunity of future membership would create leverage for realising ambitious conflict resolution objectives, i.e. generating democratic and stable institutions and ethnic-reconciliation and that SAP conditionality would bring a final settlement between Kosovo and Serbia through regional and border security cooperation.

In line with the regional objectives, the EU has offered a flexible form of integration and limited institutional relations with Kosovo, and it has so far avoided mentioning the actual enlargement timetable. In order to compensate for the lack of clear enlargement roadmap, the EU offers what Renner and Trauner (2009: 451) call 'sectoral approximation in a creeping process towards EU membership' through visa liberalisation, harmonisation and financial aid as middle-range incentives on the way to membership. According to the EU, the main aim of not providing a clear timetable for accession is to create an atmosphere for conflict resolution that is free from the immediate pressure of enlargement in Kosovo.

Looking at the EU's declared objectives, the SAP and the accompanying tools of conditionality should mirror the normative objectives and methods of the EU framework in Kosovo (i.e. norms and values of democratisation, institutional reform and state-building process). In other words, the SAP should combine the EU's aim of addressing the root causes of conflict through a long-term policy instrument in Kosovo.

In practice, the EU commitment to membership is firm, but highly vague because the EU is first concerned with the stabilisation of Kosovo over the membership agenda. Since it perceives the protracted conflicts in its neighbourhood as a source of instability,

⁴²Commission (2005). Communication from the European Commission, A European Future for Kosovo. European Commission, COM 156, 2005.

⁴³Commission (2008). Communication from the Commission to the European Parliament and the Council "Western Balkans: Enhancing the European Perspective. European Commission, COM(2008)127.

⁴⁴ Javier Solana, 14 July 2009, Summary of remarks to reporters by EU High Representative for the CFSP, during his trip to Kosovo, available at: http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/declarations/109236.pdf.

migration and organised crime⁴⁵, the EU considers the long-term proactive approach would foremost serve to the aim of stabilisation of the region and eliminate security threats. Conditionality for SAP countries has progressively become more demanding reflecting the EU enlargement fatigue and internal inter-institutional and member state divisions, rather than the normative objectives of the EU conditionality. For instance, the final declaration of the Zagreb Summit in November 2000 emphasised that before commencing membership negotiations, the SAP countries had to respect the Copenhagen criteria (the democratic-political criteria, the economic development criteria measured by the presence of a market economy and an ability to withstand the competitive market and the *acquis* implementation criteria). Besides the Copenhagen criteria, the countries in the region are asked meet the so-called SAP criteria. These criteria are especially demanding since SAP countries are required to precisely meet a number of standards related to developing good neighbourly relations, tight border controls to prevent smuggling and illegal immigration and other country-specific short- and middle-term priorities determined by the Commission's European Partnership documents before any contractual relations are developed with the EU (i.e. Stabilisation and Association Agreement- SAA).

After the signature of an SAA, an 'effective implementation of the agreement is another prerequisite for any further assessment by the EU of the country's prospects for accession' (Sebastian 2008: 3). In other words, the presence of an SAA does not mean that the country automatically becomes a candidate country. Moreover, the SAP countries were presented another condition, the so-called the absorption capacity of the Union (Emerson, Aydin et al. 2006). The absorption capacity was emphasised in the enlargement strategy papers of 2005 and 2006 for the region. These additional requirements on top of Copenhagen criteria are required to become only 'a potential candidate', a new category introduced by the EU for the Western Balkans. The ambiguous absorption capacity and the additional criteria for the countries in the region have induced discussions on the EU's actual willingness to offer a place within the Union in the region.

The strict and ambiguous criteria point out that there is a gap between EU's declared normative goals and the actual efforts which reflect the internal divisions and strategic concerns of the EU over the enlargement towards the Western Balkans. Through

⁴⁵ For instance, the Western Balkans was identified among the potential areas for joint action by the EU in the European Council Report 'Areas Open to Joint Action vis-à-vis Particular Countries or Groups of Countries' in June 1992. Thereby, the long term state building and economic development in Kosovo is closely related to the EU's strategic objective of 'contributing into safeguarding European security', European Council Presidency Conclusions, 26-27 June 1992, Lisbon.

the SAP, the EU actually promotes the stability in the neighbourhood and aims to protect the peaceful EU-zone against potential instabilities due to renewed ethnic clashes and illegal immigration. Some even argue that association and final membership goals are contradicting which forces the EU to generate two separate agendas (Elbasani 2008).

Furthermore, contrary to the EU's normative framework that prioritises local ownership and participation, the EU is keen to keep a top down control over the entire process of developing contractual relations. The EU offers eventual membership to Kosovo and other countries in the region on the condition of compliance with certain criteria of reconciliation and rapprochement at the domestic and regional levels. In order to dismiss the potential accusations of top-down approach and social engineering, the EU emphasises that the pace and extent of compliance is left to the candidate country. Nevertheless, EU has introduced a form of "external regulation without formal responsibility for governing and policy making" (Chandler 2010b: 71) through the SAP. The possibility of being deprived of rewards and reputational costs always provide pressure on the Kosovo authorities. For instance, the EU, mostly the Council, preserves the power for the ultimate decision to freeze financial assistance in case of a failure to meet the requirements of conditionality (Vachudova 2003). Despite the regular bilateral meetings between the EU and Kosovo (and other countries in the region) that allows for an opinion exchange, political conditionality are tightly linked to the incentives through which the EU keeps a strict control. There is also a long process between the evaluation by the Commission regarding the implementation of SAA obligations and the opening-up the accession process. As stated in the 2005 Enlargement Strategy, the 'the European Council decides whether and when negotiations can be opened, based on a recommendation from the Commission' (Commission 2005).

Hence, contrary to the EU's discourse that the EU's commitment for Kosovo's integration is driven by local ownership, there is a complex process ultimately controlled by the Commission and the Council. The top-down control does not easily fit into the EU's discursive commitment to local ownership. As Gordon, Sasse, et al. (2008: 23) warns the overwhelming focus on a top-down approach 'is likely to store up greater problems and potentially contribute to further societal breakdown in the future in post-conflict societies where ethnic divides remain strong and subnational elites need to be co-opted into the political and socio-economic process of domestic reconstruction and transition, and EU integration'.

Additionally, the EU sometimes ignores the peculiarities of the post-conflict environment in Kosovo and continues to apply the so-called standard ‘presumed peace dividends’ (Gordon, Sasse et al. 2008: 7). In principle, the EU has outlined a flexible country-by-country approach. In practice, the regional approach continues to overlook the country-specific conditions of Kosovo. For example, the ambiguities over the recognition of Kosovo⁴⁶ prevents the Council to reach a unanimous decision for furthering bilateral relations. Kosovo was offered Stabilisation Tracking Mechanism (STM) in 2002 which was introduced as a parallel instrument to the SAP. Only in 2012, the Commission published a feasibility study for an SAA with Kosovo, due to the complications of Kosovo’s international status. To date, SAAs have been signed with Albania, Bosnia and Herzegovina, Croatia, Macedonia, Serbia and Montenegro. Compared to the other countries in the region, the pace of identifying Kosovo as a potential candidate has been extremely slow. Despite Kosovo’s constrained independence and the previous status as an international protectorate, the EU has not tailored the standard procedure to ease the process of establishing contractual relations with Kosovo.

Compared to the other countries in the region, Kosovo’s special circumstances (destruction of war and NATO bombing, feeble state institutions and local leadership under pedagogic exercise of UNMIK and with limited powers to implement EU requirements, economic underdevelopment, continuing tensions and clashes between Albanian and Serb populations) have relatively decreased the likelihood for Kosovo to meet the EU conditions for the foreseeable future. In this sense, Sebastian (2008) and Gordon, Sasse et al. (2009) note that the EU was inspired by the example of CEE accession when devising the SAP. However, the priorities of CEE conditionality have not been adequately customised to meet the conflict resolution objective of the SAP. The ‘one size fits all’ approach by the EU (Börzel and Risse 2004) have prevented the EU to devote resources to the Kosovo’s major problem of inter-ethnic relations.

Overall, the normative arguments that EU framework is built upon has not been sufficiently reflected in the SAP as a tool of conflict resolution. The EU’s normative framework aims at facilitating conflict resolution through promotion of the same values and models that the EU rests on as a part of conditionality and the peace project in the

⁴⁶ Five EU member states (Spain, Greece, Slovakia, Cyprus and Romania) do not recognise Kosovo’s independence and the required Council unanimity for bilateral contractual relations with Kosovo cannot be reached due to this problem.

Western Balkans⁴⁷. The Union has introduced the SAP and democratic, economic and institutional conditionality with an aim to integrate Kosovo into the Union. However, the EU's emphasis on stabilisation more than association, top-down and one size fits all approach do not easily complement the altruistic/normative declarations of the EU.

4.2.2 Rule of Law Promotion and EULEX Policy-Making

Second policy tool of the EU in Kosovo is the promotion of the rule of law through EULEX. The EU started to contemplate a possible ESDP/CSDP mission to take over supervisory responsibilities from UNMIK on the ground as early as the Vienna negotiations. As a result, EULEX was designed to assist and guide Kosovo institutions in establishing and maintaining the rule of law in three key areas: police, justice and customs.

The “rule of law” is a system that attempts to protect the rights of citizens from arbitrary and abusive use of government power. According to Roos (2007), the existence of the rule of law means that “legal-political regime under which the law restrains the state and its authorities – legislative, executive and judicial –by promoting certain liberties and creating order and predictability in how a country functions”. The objective of EULEX was clearly defined in accordance with this definition. In the words of the EULEX spokesperson Karin Limdal;

[f]or EULEX it is clear that there should be *only one rule of law system in Kosovo* and we are working toward achieving this. This will be done by working with Kosovar institutions for the rule of law. We will make sure that the current system in Kosovo is improved and this implies that we will work for the interest of all people in Kosovo⁴⁸.

Although, the general objectives of EULEX support the EU objective of local ownership, the mandate of the mission was designed by the EU, without local involvement. The European Council was the only responsible authority for setting up the framework of the mandate and the size of EULEX. the joint Action on EULEX has identified a wide area of competence for the mission which would be “responsible for ensuring the maintenance and promotion of the rule of law, public order and security” (Muharremi 2010: 367). More

⁴⁷ Council (2000). Joint Action on the Meeting of Heads of State or of Government in Zagreb. European Council, 2000/717/CFSP.

⁴⁸ Koha Ditore, 16.12.2008.

clearly, the responsibilities of EULEX involve “ensuring that cases of war crimes, terrorism, organized crime, corruption, inter-ethnic crimes, financial and other serious crimes, as well as property related issues, are properly investigated, prosecuted, adjudicated and enforced according to the applicable law”⁴⁹.

Moreover, the head of the mission has been given the right of case selection for adjudication based upon the ‘objective criteria and procedural safeguards’. EULEX is also endowed with power to “reverse or annul operational decisions taken by the competent Kosovo authorities in consultation with the relevant international civilian authorities in Kosovo”⁵⁰. The EU also prepared a package of 42 laws setting up the implementation details of the Ahtisaari Plan in the post-independence period including the role and the working procedures of EULEX staff⁵¹.

In short, similar to the UNMIK mandate, EULEX was endowed with power to intervene into decisions of local authorities, if it is deemed necessary for the development of the rule of law. These new responsibilities of the EU through EULEX mission imply a major shift from the previous role of the EU as a part of UNMIK administration. Previously, as a part of UNMIK, the EU was responsible for economic reconstruction and development of Kosovo (Wittkowsky 2009). The EU acted with caution trying to limit its budget and maximising consultation with local authorities⁵². As the EU was prepared to take more responsibilities in a ‘post-status’ Kosovo during the Vienna negotiations, there was a visible increase in terms of the power of the EU over Kosovo institutions, compared to the early years of its engagement. In this sense, Dzihic and Kramer (2009: 18) state that EULEX is “operating exactly like UNMIK ... with a staff of international judges and police officers on short-term contracts and with lucrative foreign allowances, who are coming into a country with whose culture and language they have only a passing acquaintance based on superficial induction courses”.

However, it is important to note the crucial differences between EULEX and UNMIK. The previous interim administration failed to create the same checks and balances for itself that were required from emerging local institutions. Top-down powers

⁴⁹Council (2008). Council Joint Action of 4 February 2008 on the European Union Rule of Law Mission in Kosovo European Council, 2008/124/CFSP O.J. (L 42)(16 Feb. 2008).

⁵⁰ Ibid.

⁵¹ Author’s interviews, EULEX Office, May 2011, Priština/Prishtinë.

⁵² The Commission in a joint report with World Bank suggested that foreign involvement should be kept minimal and elected bodies should be made responsible at the municipal level in order to adjust the broad strategy to local needs and strengthen self-government. Commission (3 November 1999). *Towards Stability and Prosperity: A program for Reconstruction and Recovery in Kosovo*, European Commission and World Bank.

of UNMIK and the lack of visible development in Kosovo's political, economic and international conditions became the main source of contestation between local authorities and international presence throughout nine years of international administration (King and Mason 2006). As a result, UNMIK increasingly became an unpopular actor due to its shortcomings in generating progress, and its non-transparent and top-down rule-making practices above the elected Kosovo representatives⁵³.

At the developmental stage of the mission, the EU was well aware of the fact that if EULEX would fail in reversing the existing local perceptions about foreign missions, its biggest rule of law mission was likely to share the same fate of UNMIK⁵⁴. As a result, "when the EU started planning a civilian mission in Kosovo in spring 2006 ... the plan was to push the communicative dimension of the operation strongly in order to strengthen the image of the EU's foreign policy. [...] In order to portray EULEX as a symbol for a coherent, effective EU foreign policy, EULEX had to be a legitimate, credible, [and an] internationally agreed mission" (Peters 2009: 20). Being aware of the existing local discontent with foreign rule, the EU followed a cautious strategy and signalled that its intention was to assist the local authorities in policy-making in three key areas –justice, police and customs, rather than taking responsibilities on behalf of Kosovo authorities.

In this sense, the EU first dispatched a Planning Team (EUPPT) to prepare the ground work for the mission in 2006. EUPPT aimed at "initiating a dialogue with the international community, the Kosovo institutions and local stakeholders on their views and considerations regarding operational issues linked to future arrangements"⁵⁵. The Team, after collecting information on the ground, offered advice and legal proposals during the negotiations of final status which were later incorporated into the Ahtisaari Plan. The Joint Action even tasked the EUPPT to draw up exist strategies before agreeing on the mission⁵⁶.

Once deployed on the ground, EULEX policy-making is based on so-called 'programmatic approach'. According to 2010 EULEX Programme Report, programmatic approach is defined as

⁵³ In 2005, the majority of Kosovo the public (approx. 60% of Albanians and 80% of Serbs) considered UNMIK as the main actor who was responsible for the bad political situation UNDP (2005). Early Warning Report No. 12. http://www.kosovo.undp.org/repository/docs/ewr12_eng.pdf.

⁵⁴ Express, 25.12.2006, 'EU fears Kosovars' discontent'.

⁵⁵ Council (10 April 2006). Council Joint Action on the establishment of an EU Planning Team (EUPPT Kosovo) regarding a possible EU crisis management operation in the field of rule of law and possible other areas in Kosovo. 2006/304/CFSP. E. Council. OJ L 112/19. Art 1(2).

⁵⁶ Ibid. Art. 2(4).

based on a rigorous adherence to the principle of ‘local ownership’. In practice this has meant that the final responsibility for translating each recommendation into a MMA Action has rested with the relevant institutions of in Kosovo’s rule of law. In this way, the EULEX programmatic approach is designed to help Kosovo’s rule of law bodies to make the changes themselves, rather than rely upon an international presence to do it for them. Whilst Kosovo’s rule of law professionals execute the changes, EULEX staff provide constant assistance and mentoring, thereby aiding the process of organizational change. The EULEX staff also undertake monitoring of the process and prepare detailed and informative reports on progress, or otherwise⁵⁷.

The 2010 EULEX accountability guidelines state that the programmatic approach is an essential measure for operational accountability. Besides operational accountability, EULEX is committed to legal and disciplinary accountability for staff as well as political and social accountability to Kosovo authorities and people⁵⁸. In this sense, EULEX attempts to display important differences from UNMIK in terms of the novel efforts to realise the local ownership commitment. Despite its executive mandate as an unelected body, its responsibilities on the ground have been defined much narrower compared to the Special representative of the Secretary General (SRSG)’s authority. For instance, the previous UNMIK administration of justice sector was criticised for lack of local involvement and unrestrained discretion. Contrarily, the EULEX Programme Strategy emphasises monitoring, mentoring and advising (MMA) tasks with a constant reference to *acquis* harmonisation, although EULEX remains silent on the question of Kosovo’s international status and future EU membership⁵⁹. In order to achieve trilateral objective of the mission (MMA tasks), EULEX seeks close coordination with local authorities. For instance, a Joint Rule of Law Coordination Board has been established to be co-chaired by the Head of EULEX Mission and Kosovo Deputy Prime Minister. Meetings of the joint body take place with the attendance of the local Ministries of Justice and Interior, the heads of EULEX component units (justice, police and customs) and the Commission Liaison Office in order to ensure consultation and coordination with local authorities at the

⁵⁷ EULEX (2010a). EULEX Programme Report.

⁵⁸ EULEX (2010b). EULEX Accountability. <http://www.eulex-kosovo.eu>.

⁵⁹ Harmonisation is re-named in Kosovo as achieving ‘the best European practices’ since EULEX is status-neutral and *acquis* harmonisation would imply tacit recognition of independence. In practice, Kosovo law is made to reflect EU standards.

highest level⁶⁰. The EU gives special importance to the joint body as “a crucial strategic forum for the European Union and Kosovo authorities to coordinate efforts in order to enhance the justice and rule of law systems” as stated by the Head of the Commission Liaison Office⁶¹. One hindrance for procedural qualities of the Board is that the meetings of the Joint Council are held closed to the public and media; and except for short press releases after meetings published on EULEX web site, the meetings of the Joint Board is not observable by the public.

Another example of shared policy-making between EULEX and locals is the ‘co-location’ principle at the operational level in order to increase accountability and transparency of EULEX activities. It aims at bringing the EULEX staff members together with the local counterparts in teams (Spernbauer 2010). In the justice component, this principle is realised through hybrid panels between EULEX and Kosovar judges. The President of the Assembly of EULEX judges has the competence to assign the respective number of EULEX and local judges for each case. The panels could entirely be assigned to local judges, if the President decides to withdraw the EULEX judges⁶². Moreover, there are individual meetings between European judges or prosecutors and their local counterparts in order to extend MMA activities to an informal ground⁶³.

In customs component, decentralised mobile work teams have been established with the contribution of Kosovo Customs staff in order to fight against smuggling at Kosovo’s border crossing terminals. In the police component of EULEX, the Police Strengthening Department is co-located with the Kosovo Police to monitor, mentor and advice local police forces. The EULEX Police department emphasises a clear avoidance of using corrective powers, except when local authorities fail to prevent violence against non-majority communities or when there is political interference in the activities of the police⁶⁴. According to the latest programme report of EULEX, strategies are jointly developed with the Kosovo Police to tackle areas of weaknesses while assessing the implementation and final evaluation are reserved for EULEX police⁶⁵.

⁶⁰ Author’s interview, EULEX Priština/Prishtinë, May 2011.

⁶¹ EULEX Kosovo, 28 September 2011, Press Release, Joint Rule of Law Coordination Board meeting, available at: www.eulex-kosovo.eu/.

⁶² Assembly of Kosovo, Law on Jurisdiction, Case Selection, and Case Allocation of EULEX Judges and Prosecutors in Kosovo, No. 03/I-053, Art 3(7).

⁶³ Author’s interviews, EULEX Priština/Prishtinë, May 2011.

⁶⁴ Ibid.

⁶⁵ EULEX (2012). EULEX Programme Report 2012: Rule of Law Beyond Headlines.

These examples show that EU has shown considerable effort when setting up the rule-making powers of EULEX in order to differentiate the mission from its international precedent (UNMIK) and consciously limited its mandate by emphasising a cooperation and partnership with local authorities. In doing so, EULEX aims to justify itself through sharing decision-making and implementation, increasing transparency and finally restoring the missing trust in the external democratisation and state-building. The overall process is expected to justify the EULEX policy-making and the executive power of EULEX through referencing programmatic approach, i.e. MMA tasks and limited use correctional power by the mission.

4.2.3 Ethnic Reconciliation and Decentralisation

With the complexities generated by cross-border national minorities and ethno-national mobilisation after the disintegration of the USSR and Yugoslavia, the international community and the EU have become convinced that wide-ranging rights and representation for minority communities are crucial in order to prevent future clashes and to reintegrate minority groups into the post-conflict states. As a result, “territorial institutional accommodation” has become a common feature of international response of the “territorial self-determination conflicts irrespective of the degree of violence” (Wolff 2011: 28). Given the variety and volume of on-going self-determination claims in its neighbourhood, the EU has become a leading actor, pressing for adaptation and implementation of minority rights in third countries for a decisive settlement of conflicts in its vicinity.

Kosovo Serbs’ situation is a recent example of this approach. In Kosovo, the international community has developed a ‘decentralisation’ process⁶⁶. Decentralisation constitutes a major component of EU’s multi-dimensional engagement in Kosovo supporting its double justificatory discourse: establishing a sustainable peace and supporting Kosovo’s integration into the EU. In this sense, decentralisation is considered as a well-designed process for conflict resolution in Kosovo to balance administrative

⁶⁶ Decentralisation, in the narrowest sense refers to the devolution of power from central state to local/territorial components of the state Hajnal, G. and G. Peteri (2010). Local Reform in Kosovo. Final Report Forum 2015. Pristina. The history of decentralisation in Kosovo dates back to 2002. Under UNMIK regime, the CoE made the first proposals for the reform of local governance including the current scheme of creating new municipalities with extensive local administrative power which were guided by the first international legal instrument for local governance and local autonomy, ‘the European Charter on Local Self-Governance’ Janjic, D., S. Cvijic, et al. (2005). Why is Decentralisation Important for Kosovo Status Talks? Center for Non-Violent Resistance White Paper. Belgrade.

autonomy, individual and group rights in decision-making (Kostovicova 2008). The Ahtisaari Plan set out the objectives of the decentralisation initiative as in the following:

- to address the legitimate concerns of the Kosovo Serb and other Communities that are not in the majority in Kosovo,
- to encourage and ensure those groups' active participation in public life, and strengthen good governance and the effectiveness and efficiency of public services
- to enhance a sustainable system of local self-governance in Kosovo.⁶⁷

By supporting decentralisation, the EU aims to follow the international practice of conflict resolution and to secure the support from minority communities, especially Kosovo Serbs. On the one hand, minority rights are considered by the EU as the main criteria to resolve existing ethno-national grievances and prevent new ones (or escalation of the existing ones), and thereby, to promote stability in the EU's neighbourhood. On the other, the decentralisation process in Kosovo is directly linked to EU integration conditionality since Kosovo has become a potential candidate country. As stated by the former ICR/EUSR Feith, "implementation of decentralisation is a good signal to the European Commission and will help Kosovo to move towards the EU"⁶⁸.

However, decentralisation and minority rights have been Achilles heel of Kosovo's stability since the end of the war. Besides the continuing inter-ethnic hostility and reluctance to live together, Kosovo's leadership has shown limited will to grant autonomy to Kosovo Serbs. For these reasons, the EU and other actors in charge of decentralisation process are often compelled to override the local ownership principle to oblige the local leaders to comply with the objectives of decentralisation (Tahiri 2009).

Decentralisation also exemplifies the close cooperation of the EU with the UN and international experts (Weller 2008)⁶⁹. Similar to the design of EULEX, decentralisation

⁶⁷ Comprehensive Status Proposal, Annex III, introductory paragraph: <http://www.ico-kos.org/?id=38>.

⁶⁸ Koha Ditore, 12.05.2009, 'Feith: Decentralisation moves Kosovo closer to EU'.

⁶⁹ Here, the aim is not to discuss the institutional design of decentralisation in Kosovo. Excellent discussions on alternative power-sharing agreements and cases of territorial autonomy can be found in Wolff, S. (14-16 February 2008). *Resolving Self-determination Conflicts: The Emerging Practice of Complex Power Sharing*. Paper presented at the conference *Das Selbstbestimmungsrecht der Völker*. Historisches Kolleg München, Choudhry, S. (2008). *Constitutional design for divided societies : integration or accommodation?* Oxford, Oxford University Press, Weller, M., B. Metzger, et al. (2008). *Settling self-determination disputes : complex power-sharing in theory and practice*. Leiden ; Boston, Martinus Nijhoff Publishers, Brancati, D. (2009). *Peace by design : managing intrastate conflict through decentralization*. Oxford, Oxford University Press.

was devised by the international community relying on the previous UNMIK guidelines (OSCE was the responsible agent of UNMIK's Democratization and Institution Building Pillar) during the Vienna negotiations (Weller 2008). The EU is not the sole actor advising and assisting decentralisation in Kosovo. From the very start of the supervision of Kosovo's independence, the Union have taken up measures to confer the most liberal minority rights for Serbians together with the ICO in Kosovo. In this sense, substantial political and economic resources has been invested in the decentralisation project by the ICO which has been until April 2011 headed by the EUSR. The EU has also encouraged Kosovo to adopt a legal framework that takes into account minority protection principles enshrined in the major Council of Europe (CoE) documents such as the European Charter of Local Self-Government and the European Charter for Regional or Minority Languages.

In short, the recognition of multi-ethnicity, integration of Kosovo Serbs and improvement of minority rights constitute an indispensable part of the SAP conditionality for Kosovo in order to progress towards EU integration. Moreover, it can be claimed that after the end of the supervised independence period for Kosovo in September 2012, the EU has become the sole responsible actor to monitor and evaluate decentralisation and minority rights in Kosovo.

4.3 Conclusion

This chapter has assessed the EU template (discursive arguments and policy tools) that informs the legitimisation process in Kosovo. The chapter has demonstrated that the EU template is informed by the broader international context and practices of the international community regarding Kosovo as well as EU's own perception of conflict and conflict resolution. Whilst, the normative argument dominates the EU's ideational framework, the EU's policy tools are not always consistent with normative or altruistic objectives of the EU.

To summarise the main discussion, the EU claims that its engagement in Kosovo conflict resolution is multi-dimensional, civilian, holistic and benevolent in line with the desired role of the EU at the global scale. Kosovo engagement has always been seen and promoted as the historic beginning of EU conflict resolution. For these reasons, the EU aspired to distance itself from UNMIK in order to justify its deepened engagement and novel responsibilities vis-à-vis the local audience in Kosovo. Besides a persistent emphasis on universal humanitarian credentials of its engagement, the EU has promoted local

ownership. Moreover, the EU's promotion of Kosovo's place in Europe and its future integration has aimed to extend 'Europeanness' to Kosovo replacing the historical exclusionary approach towards the Western Balkans.

The chapter has also discussed that besides the ideational/discursive framework of the EU, the Union, as a policy actor, has introduced a policy toolbox that includes the SAP and membership prospect, the rule of law mission and the decentralisation process. The available instruments to address the conflict in Kosovo demonstrate high levels of EU commitment to conflict resolution through an active policy-making and close collaboration with local groups as well as other international actors on the ground. Nevertheless, the chapter has found that the EU policies and procedural aspects of policy-making and implementing have not always been in accordance with the local ownership and burden-sharing principles. The SAP is first and foremost used to stabilise Kosovo (and the broader region) while association has so far been promoted as a distant outcome. Moreover, the association progress is controlled by the Commission and the Council. The rule of law mission has introduced local ownership and responsibility more than the previous international administration. However, its initial design and executive powers has not always comfortably co-existed with the EU's normative justifications. Finally, the decentralisation process is a top-down imposed agenda due to the local groups' reluctance to seek inter-ethnic reconciliation. Overall, the chapter has illustrated that the EU as a policy-making actor has sometimes diverted from the normative framework, especially in terms of the local ownership and responsibility-sharing principles.

The next chapter turns to the local template to reflect on the crucial dimension of legitimisation, i.e. local support and reasons for dissent by looking into how perceptions and value patterns of different local stakeholders contribute to the process of legitimisation vis-à-vis the EU template.

Chapter Five – Local Groups in Kosovo

“The problem with foreigners is that they don't understand what's going on in this country, and we're not here to solve their problems”.

*Andjelko Erdeljanin*⁷⁰

5.1 Introduction

This chapter aims to investigate the EU's legitimisation process by applying the four-path framework of legitimisation developed in Chapter Three. The previous chapter analysed the 'EU input' into the process of legitimisation by looking at normative/ideational framework of the EU and its specific policy tools. This chapter completes the analysis of the process of legitimisation by looking at how the EU self-justifications are perceived and interpreted by different local groups to confer or deny diffuse and specific support to the EU. As discussed previously, the EU's self-justifications are considered as one side of the legitimisation process. Such self-justifications, as discussed throughout this chapter, affect the perceptions, priorities and expectations of local stakeholders about the conflict and conflict resolution. However, the legitimisation process is shaped by the diffuse and specific support from local actors.

The chapter takes the multiplicity of local actors in Kosovo into consideration and aims at analysing how their dynamic relationship with the EU's 'normative framework' and 'policy-making' on the ground shape the locally grounded legitimisation process of the EU's conflict resolution engagement. It finally identifies the challenges for the EU to generate local support and the consequences thereof.

The table below summarises the EU conflict resolution in Kosovo along the two-dimensional model. Recalling the discussion in Chapter Three, diffuse support is related to the support for the EU as a framework of ideas, values and principles; whereas, specific support is concerned with the support for tangible policy instruments addressed to Kosovo conflict and how they are utilised by the EU. The normative-empirical axis represents the main sources of legitimisation. Normative sources are characterised by prescriptive or externally defined aspects of legitimisation. The EU is expected to rely on international law and fundamental principles such as humanitarian concerns, democratisation and local

⁷⁰ From <http://www.kosovocompromise.com/cms/item/home/en.html>.

ownership and procedural qualities such as accountability, deliberation and transparency. The empirical sources embrace the way in which the EU relies on beliefs or subjective evaluations of local groups on the EU's framework and policies.

	Normative Sources	Empirical Sources
Diffuse Support	Legitimation through norms/principles <ul style="list-style-type: none"> • Moral responsibility • Targeting the root causes of the conflict: state building democratisation and economic development • The integration prospect 	Legitimation through local ideas/ideologies <ul style="list-style-type: none"> • Ethnic reconciliation and 'Kosovar' identity-building
Specific Support	Legitimation through procedural/participatory qualities <ul style="list-style-type: none"> • Democratic procedures, transparency and accountability of EULEX 	Legitimation through performance <ul style="list-style-type: none"> • Establishing the rule of law • SAA and visa liberalisation

The next four sections delve into the four-path legitimation process of the EU by closely analysing local-EU relations in terms of different normative and operational fields of EU's conflict resolution agenda for each cluster in the table. Overall, the chapter aims to highlight how the EU's authority is shaped by 'the push and pull effects' between the EU and local groups (political elite, non-state actors such as civil society, opposition and public) which can generate counter-normative arguments and hinder or press the EU for action. The last section analyses a number of trends and dilemmas of the EU's legitimation in Kosovo.

5.2 Legitimation through Norms/Principles

Legitimation through norms/principles is related to the consistency and comprehensibility of the EU 'framework' or the norms and principles that the EU relies on when setting its broad conflict resolution agenda. As demonstrated in the previous chapter, when justifying its overall engagement in Kosovo conflict, the EU relies on the fundamental principles advocated by the international actors involved in Kosovo conflict resolution, local ownership and finally the 'reproduction' of the EU through spreading the home "rules,

political organisation, [and] modes of governance” in Kosovo (Renner and Trauner 2009: 451). In doing this, the EU follows international principles and general international practice. At the same time, it addresses the specific concerns of the local groups in Kosovo by emphasising local ownership.

Namely, the EU utilises moral action, local ownership and state-building agenda in order to justify its objectives as a consistent normative framework. First, the EU promotes its long term engagement as a normative and moral duty in accordance with the internationally-accepted principles through relying on a state-building concept initiated and supported by the international partners in Kosovo. The international community widely accepts that “the major part of the reconstruction and intervention debate centres around a liberally inspired belief that humanitarian intervention and ensuing reconstruction is now in the natural order of things” (Williams 2007: 540). In line with the international practice, the EU has adopted a liberal approach in Kosovo that is based on establishing peace through ‘political, social and economic liberalisation’ (Lidén, Mac Ginty et al. 2009).

Second, the EU relies on the main international organisations for its long-term (and, in practice, interventionist) state-building agenda. To give an example, the OECD in the Report “Shaping the 21st Century” has stated that sustainable development “must be locally owned” (OECD 1996). This idea is also embraced by the UN Millennium Development Goals in 2000 which further developed the concept of local ownership. From then onwards, the UN has consistently reinstated its commitment to local ownership in conflict resolution practice. For example, Kofi Annan has stated that sustainable development and peace “can only be achieved by the local population itself; the role of the United Nations is merely to facilitate the process that seeks to dismantle the structures of violence and create the conditions conducive to durable peace and sustainable development.”⁷¹ Finally, ‘the Principles and Guidelines of the Department of Peacekeeping Operations’ of the UN makes a clear reference to local ownership:

National and local ownership is critical to the successful implementation of a peace process. In planning and executing a United Nations peacekeeping operation’s core activities, every effort should be made to promote national and local ownership and to foster trust and cooperation between national actors. Effective approaches to

⁷¹ UNSG (20 April 2001). No exit without strategy: Security Council decision-making and the closure or transition of United Nations peacekeeping operations. [UN Doc. S/2001/394](#).

national and local ownership not only reinforce the perceived legitimacy of the operation and support mandate implementation, they also help to ensure the sustainability of any national capacity once the peacekeeping operation has been withdrawn (DPKO 2008: 39).

Following the footsteps of the major international organisations, the EU asserts itself as a partner of the local authorities in Kosovo which have actual control and ownership of the process. As discussed in the previous chapter, the EU persistently emphasises that its overall outlook in Kosovo foremost aims cooperation with the local government rejecting top-down approaches in favour of responsibility-sharing. As a result, the EU evidently acknowledges that reform for strengthening inclusive democratic and developed institutions in Kosovo should be achieved only through local ownership. Mulaj (2011) points out that this strategy of combining interventionist agenda with local ownership discourse has always been a source of justification. According to Mulaj (2011: 244), from the international actors' viewpoint, "[t]he generation of legitimacy from within was premised on the promise of polity formation and fulfilment of basic needs of Kosovo's people, which could – in turn – generate popular trust and enable legitimacy to be grounded within the local population".

Third, besides concurring with the international practice and principles, the EU's normative and ideational framework correctly addresses the sceptical local population. The previous chapter demonstrated that there is a persistent reference to the post-UNMIK credentials of the EU's presence in Kosovo. It shows that when the EU has become the main actor in conflict resolution after 2008, it was aware of the local discontent with foreign missions. The post-UNMIK emphasis in the EU's justifications aimed to send the local audience a message that the EU wanted to make a fresh start in Kosovo by clearly distancing its future presence from UNMIK. In fact, by 2006, the status and economic conditions of Kosovo were the two main areas that the public expressed the utmost dissatisfaction with UNMIK and local authorities⁷². Between 2005 and 2007, satisfaction with UNMIK fluctuated between 25-40%, while satisfaction with the SRSG and PISG dropped from 80% to 35%, approximately (UNDP 2007). The remarkable drop in satisfaction with UNMIK, the SRSG and the PISG are considerable factors to understand

⁷² According to the UNDP Kosovo Mosaic Report unemployment, Kosovo's final status, rebuilding economy are the top three problems identified by public in 2006. UNDP (2006). Kosovo Mosaic. http://www.kosovo.undp.org/repository/docs/KosovoMosaic-English_web5.pdf. October 2006.

how the EU framework generated credibility by denying UNMIK and emphasising local ownership of development/democratisation that the EU would promote.

Overall, the norms and principles that the EU framework relies on are promoted consistently to address both the local priorities (sovereignty and local control of decision-making, political and economic development) and the main international principles of conflict resolution. The EU's normative commitments increased and renewed the local expectations from the EU. As the EU's role and commitment increased in Kosovo, local attention paid to the EU has diverged from UNMIK and other international actors in the second half of 2000s. Partially affected by the existing negative attitude towards UNMIK, the profile of the EU as an alternative to UNMIK improved among the majority of Albanians. The role of Kosovo press is particularly important in contributing to the EU's reputation and local expectations especially during the Vienna negotiations and in the aftermath of the independence declaration. High level EU officials' declarations have found a place at front pages of dailies that 'the issue of Kosovo is essentially European after the failure of UN negotiations'.⁷³ The print media helped to build a powerful image of the EU which 'did not back away',⁷⁴ or 'did not give up Kosovo',⁷⁵ even when there was international disagreement about Kosovo's future. The local press promoted an idea that the EU 'prepared a unified stand on status of Kosovo',⁷⁶ and the Union was ready 'for a timely and unique reaction after the status solution is resolved'.⁷⁷

Moreover, EU has created an advantage over other third parties thanks to the integration prospect. The potential integration of Kosovo within the EU is interpreted by all groups of local stakeholders as a real change of Kosovo's ambiguous international status from an oppressed territory and international protectorate to a prosperous member of the EU. For instance, Kosovo's Prime Minister Hashim Thaçi noted that the European integration always remains as 'top priority' for the government since European integration is "common destination of Kosovo politicians, institutions and all of people of Kosovo"⁷⁸. The support for Kosovo's place in the EU as an independent state has generated widespread public support for the future integration of Kosovo into the EU. For example, across the Western Balkans, Kosovo Albanian public is the most supportive of EU

⁷³ Koha Ditore, 18.01.2008, 'Rehn: Kosovo is Europe's issue'.

⁷⁴ Info press, 08.01.2008, 'EU does not back away!'

⁷⁵ Kosovo Sot, 08.01.2008, 'EU does not give up Kosovo'.

⁷⁶ Koha Ditore, 16.02.2006, 'EU prepares a unified stand'.

⁷⁷ Express, 25.12.2006, 'EU fears Kosovars' discontent'.

⁷⁸ Speech by Prime Minister Thaçi: European integration remains a top priority 7 April 2010, Priština/Prishtinë, Available at <http://www.kryeministri-ks.net/?page=2,104,1339>

accession⁷⁹. European integration is seen as a national goal that should supersede narrow policies of the incumbent governments⁸⁰. The majority of Kosovo Albanians see themselves as ‘young Europeans’ whose future are in the EU.

The Kosovo Prime Minister statement demonstrates how the EU integration is linked to norms promoted by the EU in a European Kosovo free from ethnic hostilities and the destruction of war:

The integration process will strengthen good, effective and efficient governance, the rule of law, the uncompromising fight against corruption, reforms in justice, economic development, social welfare, employment, the free movement of people, modern local and national road infrastructure and the promotion and development of the agricultural sector⁸¹.

Looking at the broad support for EU integration among the local groups, it would be fair to claim that the EU has become a part of an ‘existential discourse’ in Kosovo where “EU policies matter not simply because of the value attached to their anticipated outcomes, but rather as gestures of great symbolic importance affecting domestic legitimacy and international credibility” (Papadimitriou and Petrov 2012: 6). The support given to the EU agenda of state-building and democratisation in Kosovo can be explained through the broad-based support given to the EU integration prospect. The reason for such a broad-based diffuse support for the EU integration is that the Union’s constant reference to international principles and local ownership have been a sign to local groups that the independence of Kosovo has been acknowledged and Kosovo has risen to become an equal member of the international community. Therefore, from the Kosovo public’s and politicians’ point of view, the mere presence of EU membership prospect is not only a matter of sovereignty but also international reputation, status and development (Papadimitriou, Petrov et al. 2007; Papadimitriou and Petrov 2012).

Hence, looking at the legitimation of the EU framework through norms and principles, the consistent promotion of norms in accordance with international principles

⁷⁹ According to EU Perspective in Kosovo survey, nearly 60% of respondents think that Kosovo would become a member within 5 years and less than 20% think that it is a long term process in 10 to 20 years EUPK (2010). Survey of Awareness of the EU and European Integration in Kosovo. EU Perspective in Kosovo. Pristina, EU Liaison Office. July-August 2010.

⁸⁰ Author’s interview with Adem Gashi, KIPRED, May 2011, Priština/Prishtinë.

⁸¹ Speech by The Prime Minister Thaçi: European unity on Kosovo – trust in Kosovo’s European future, 22 March 2010, Priština/Prishtinë, Available at <http://www.kryeministri-ks.net/?page=2,104,1334>

of conflict resolution and local priorities, the EU as a framework has generated a broad-based public trust and credibility. Nevertheless, this support has also created new demands from the EU as an actor to take more action to ‘correct’ Kosovo institutions on their way to democratic and self-sustaining Kosovo. While these demands demonstrate that the EU framework initially achieved to overcome the locals’ negative attitude towards the foreign presence, they also put pressure on the EU to change its commitment to keep low profile and not to take actions to correct or reverse the local authorities’ decisions. In other words, as local priorities are redefined throughout the EU engagement in Kosovo, local expectations pull the EU towards different directions asking an uneasy trade-off between procedural qualities respecting local ownership and efficient performance delivering expected outcomes. This issue is addressed in detail later in the chapter.

5.3 Legitimation through Local Ideas/Ideologies

Legitimation through local ideas/ideologies deals with the question if the EU as a framework lends itself to diffuse support by looking into local adoption, re-interpretation and tailoring of the EU’s normative agenda in accordance with local value systems and perceptions of conflict resolution. It questions if local groups share the same vision of the EU in terms of a Europeanised Kosovo, how local groups respond to long term engagement of the EU to alter political and social balance among different communities in Kosovo, how the EU framework of norms and principles is actually understood by local groups and finally what reservations the locals have when providing diffuse support for the EU’s long-term state building, democratisation and Europeanisation framework. In this sense, by looking at the legitimation process through local ideas and discourses, we can also be informed about the (counter-) normative arguments of various local groups challenging the EU framework. Different from the prescriptive nature of legitimation through norms and principles where international and EU principles and norms are studied from a point of consistency, legitimation through local ideas/ideologies requires us to reflect on if and under what conditions local groups provide diffuse support for the normative framework of the EU.

One of the core objectives of the EU’s normative engagement in Kosovo is to eliminate ethnic hatred, mass deportations and violence between Albanians and Serbs of Kosovo and to promote a civic and supra-ethnic identity. In this sense, the EU conditions local groups to adopt democratic and representative institutions and follow the EU as a

role model for reconciliation; and by doing so, plays the role of an identity-builder in line with its own civic culture and identity norms. The main objective of the EU is to eradicate the root cause, i.e. exclusionary ethnic nationalism, of the conflict between Albanians and Serbs. The ground policies of the EU (state-building, democratisation, establishing rule of law and decentralisation) are designed to serve to this normative objective of generating a supra-ethnic identity that is inclusionary for all communities. In turn, a prospect of membership is utilised as an incentive which is conditioned upon the generation and maintenance of a novel 'Europeanised identity' in Kosovo. As discussed in the previous section, the EU membership prospect is widely supported as a matter of sovereignty and reputation by the majority of local groups. The question is whether the local stakeholders actually share the same vision of the EU in supporting the broad framework of ethnic-reconciliation and supra-national identity building and to what extent ethnic-reconciliation and civic identity building are embraced by the local groups.

When we look at the legitimisation through local ideas, the desire for a civic identity has gained prominence mostly among a limited number of intellectuals and academics in Kosovo. For these groups, while *Kosovar* as a national category did not exist for many inhabitants only a decade ago and the word Kosovo only denominated a name for a place whose residents were either Albanian or Serbian, *Kosovar* now offers as a new identity category. Especially among pro-European intellectuals, an EU-inspired *Kosovar* identity is considered as a part of Kosovo's approximation to a democratic, stabilised, and thereby a European country. In this sense, the *Kosovar* identity is based on the values of diversity, tolerance and 'modernisation' and aims to replace clientalism, tribal, ethnic or personal ties of the traditional Albanian society. For instance, Migjen Kelmendi, the founder and editor of weekly *Java Magazine*, states that

Europe is a community of values. Allow me to recall only some of them: respect for human dignity, liberty, democracy, equality, rule of law, human rights, tolerance and diversity. If Kosovo would find the strength to adopt these values, the debate on Kosovo's European identity could be unnecessary. '*Kosovar*' can become another word for 'European [...] because both concepts were not ethnically generated' (Kelmendi 2008: 88).

Similarly, Hasimja in his article 'The *Kosovar* Identity Engineering' argues that the long and painful process of complying with EU conditions is an internal feature of European

identity and it should be acceptable in Kosovo as a part of the identity creation process. In his words:

In the case the creation of the sub-national or national identity, the creation of the identity precedes the behaviour in accordance with that identity, whereas *in the case of European identity, the behaviour (and the formal procedures) precedes the creation of the identity* in order to lay the necessary political foundation for the process (Hasimja 2008: 84).

In this sense, Kosovo Albanian intellectuals have contributed to what can be called a top-down process of civic identity building inspired by the EU. These intellectuals interpret the Europeanisation of Kosovo as a worthwhile attempt to give up the ethnically defined Albanian identity. For this reason ‘Kosovar’ has been invented as a new identity category which was inspired from European supra-national identity. Muhamedin Kullashi a former professor at *Université Paris 8* and the current ambassador of Kosovo to France similarly acknowledges that Kosovar identity is seen as the only way of creating a civic identity beyond ethnic hostilities and as the only way to ‘foster a fruitful communication with the tradition of European democracy’ (Kullashi 2008: 12). In other words, the EU’s normative framework is reproduced by the local intellectual circles to replace the traditional loyalties of Kosovo Albanians. ‘Kosovar’ has been promoted as a test for the Kosovo Albanians with modern statehood that approximates the European tradition. The emerging notion of ‘the Kosovar’ among the intellectual groups denotes how Kosovo’s state institutions promote a notion of a collective citizenship, loyalty and shared history and culture.

More interestingly, ‘Kosovar’ as a product of an intellectual brain-storming has found its way into the political circles in Kosovo. The official discourse on identity is also full of references to EU-inspired supra-ethnicity of ‘the Kosovar’ as a part of the Kosovo government’s support for Europeanisation and state-building agenda. The EU’s preferred norms of ethnic reconciliation and civic culture have become a part of the political elites’ official discourse on de-ethnicised identity of Kosovo. PM Thaçi’s speech on day of independence declaration provides a good example of the official adoption of the ‘Kosovar’ identity:

As my parents and grandparents taught me what being a Kosovar means, I ask you to speak to your children and grandchildren and explain to them the meaning of this day⁸².

Frequently, local politicians have adopted an evident reference to being ‘Kosovar’ which also implies equality between different groups and multi-ethnic tolerance. Again, Thaçi’s speech on the International Roma Day shows of how EU norms can be employed as a framework of tolerance by the domestic elites as evident references for a new Kosovar identity for all ethnic groups:

Kosovo belongs to everyone and it is the homeland of all of its citizens. Therefore, Kosovo needs to be *united in its diversity* towards including all communities in our society and putting aside our differences⁸³.

By talking about Kosovo as a mini reflection of the EU where differences are put aside and all groups are ‘united in diversity’ as Kosovars regardless of their origin, Kosovo’s Prime Minister brings an EU dimension to the identity of the new state and provides an evident discursive support for the EU framework. As a form of public diplomacy and international promotion of this new identity, in 2009, the government paid a foreign company to generate a branding campaign called Kosovars as ‘Young Europeans’⁸⁴. In short, there is a discursive support provided in favour of the EU framework of ethnic reconciliation and a Europeanised Kosovar identity by circles of intellectuals and politicians.

However, it is difficult to claim that such references to a Kosovar identity as a supra-ethnic face of the new state extends beyond a small circle of intellectuals and official rhetoric. Instead of an outright rejection of this supra-ethnic Kosovar definition, ‘Kosovar’ is imbued with a majoritarian meaning by the majority of the public and even the local politicians. Namely, for the majority of Albanians, the invention of ‘Kosovar’ is only a result of rational behaviour since it would be the only path towards an independent state and self-rule. As Weller (2008) demonstrates, from the early days of the Vienna status negotiations until the very end, it was known to the local politicians that the desire for independence would only be realised by committing to the EU framework of ideas and

⁸² Speech by the Prime Minister on the Independence Day, 17.02.2008, available at: <http://www.assembly-kosova.org/?cid=2,128,1639>.

⁸³ Speech by the Prime Minister Thaçi, 8 April 2010, “Kosovo belongs to everyone – it is the homeland of all of its citizens, Priština/Prishtinë”. Available at <http://www.kryeministri-ks.net/?page=2,104,1340>.

⁸⁴ <http://www.kosovo-young.com/#>.

values such as granting equal rights to all communities regardless of ethnicity. During the Vienna negotiations, the Kosovo delegation was compelled to abandon the dominant Albanian identity of a new state in their agenda. Weller, as a direct advisor to the Kosovo team during the Vienna negotiations, notes that local politicians reluctantly yielded to the EU pressure to exclude any sign of ethnic identity references, majority/minority divisions from the Kosovo Constitution (Weller 2009). In other words, to attain the goal of independence, the Kosovar Albanian leadership had to work towards the creation of a supra-ethnic identity that is inclusive of 'the peoples of Kosovo' including Serbs, Turks, Bosniaks, Roma and other groups. Kosovo's Albanian political leadership had to publicly proclaim the significance of a civic identity and placed it at the centre of the state-building process by acceding to the EU vision of supra-ethnic state and multi-ethnicity. For these reasons, since the declaration of independence, the term 'Kosovar' has served for the official rhetoric of the government.

However, endowing the new state with references to multi-ethnicity and democratic governance through power-sharing between communities has actually clinched the Kosovo Albanian monopolisation of the 'Kosovar' identity, rather than promoting Europeanisation and a transformation of mono-ethnic identities of the local communities. This process of monopolisation started with the establishment of the PISG in 2001 which was exclusively dominated by the Kosovo Albanian leadership and consolidated after the declaration of independence. Indeed, the Prime Minister's Independence Day speech continues as:

My family, like yours, like all families all over Kosovo never wavered and never lost faith in our countrymen. From the brother who left his family to fight, to the farmer who would not cede his land, to the women and men who opened their homes and taught our children, to the student who stood up and said 'no more'. ... Retell the story for generations of the joy and pride we now feel and never forget to teach them to remember the great sacrifices of those who have come before us⁸⁵.

As seen in this statement of Thaçi, Kosovar as an identity category is built upon the Kosovar Albanian suffering under the Serb rule. In an interview with the New York Times, just a few months before the independence day speech, Thaçi had explicitly

⁸⁵ Speech by the Prime Minister on Independence Day, op.cit.

declared that “a Kosovo identity does not exist” (Bilefsky 2007). In this sense, the Kosovar underlines the crucial division between the majority Albanians and the minority Serbs, regardless of the European and supra-ethnic references attached to it. In this sense, a civic identity strengthened the division between majority Albanians and Serbs in Kosovo by emphasising the historical experience and memory of the conflict.

The broad support for a European future does not generate a natural acceptance of the supra-ethnic symbols of Kosovo especially, among the majority of the young Albanians. For many Albanians, Kosovar identity is not based on a supra-ethnic definition but on the transformation of the Albanian identity of Kosovo Albanians through “de-mythicizing of the motherland (Albania) [which] is accompanied with the construction of a [a novel] local neo-mythology” by centralising Kosovo as the centre of history and nationhood independent from “all-Albanian phenomena” (Hasimja 2008: 83).

However, this de-mythicizing does not entail to an internalisation of supra-ethnicity. According to a 2010 Kosovo-wide UNICEF survey among the Kosovo youth, 27% of respondents stated that ethnicity was still ‘very’ important’ in defining identity (UNICEF and IKS 2010: 70). To give a few example, the Kosovo flag which mimics the EU flag with blue background and six stars (i.e. six ethnic groups) on top of a yellow silhouette of Kosovo map is referred as a ‘mickey mouse flag’⁸⁶ among the youth. Similarly, many people stated that “Kosovar the Young Europeans’ campaign aimed to create an image of a Kosovo which ‘its leaders want to see (e.g. happy people with a new identity)’ (Wählich and Xharra 2010: 33). The exclusively Albanian symbols, i.e. flags of Albania, pictures of the heroes of the Kosovo Albanian resistance and the missing persons, are widely used to along the symbols of Kosovar identity. The following pictures from the celebrations of declaration of independence in Pristina demonstrate how the new state and identity are conceived as exclusively Kosovo Albanian, contrary to the EU vision of civic/supra-ethnic state.

⁸⁶ Author’s interviews with university students, May 2011, Priština/Prishtinë.



Independence Day Kosovo, 17 February 2008. Source: bbc.co.uk [accessed in October 2011]



One year after independence, children celebrating with EU and US flag with Albanian national flags along a bridge in Kacanik in the background. Source: <http://mediagallery.usatoday.com/Kosovo> [accessed in October 2011]



Ibrahim Rugova, the leader of Albanian resistance during the Milosevic years and the first president of Kosovo and photos of missing Albanians on the two main streets in Priština/Prishtinë. Source: Author's collection, May 2011.

In this sense, the words of Shkelzen Maliqi, a Pristina-based sociologist, represent the widespread meaning attached to ‘the Kosovar’ more accurately than the official declarations:

the term ‘Kosovar identity’ is artificial. It’s difficult to define what it really is – even for those who think it exists. Although there are differences in the worldviews of Kosovo Albanians and those [Albanians] across the border, these differences are not enough to make up a [Kosovar] identity. A Kosovar identity would not be stable and strong identity, with a clear meaning (cited in Konomi 2009).

Similarly, a Kosovo Albanian academic Rexhep Qosja argues that the international parties wanted to encourage a specific Kosovar identity “thinking that will make Serbs more comfortable.” But Albanians in Kosovo and Albania still think that they “are one nation, and the pretence of creating another nation or identity is not only absurd but anti-historical” (cited in Konomi 2009). In practice, an artificially constructed Kosovar identity has only helped the majority community to monopolise the new state.

Unsurprisingly, Kosovo Serbs also reject to replace a dominantly Serb identity of Kosovo with a supra-ethnic Kosovar identity that was generated as a re-interpretation or tailoring of the EU ideal for reconciliation. Often, only being asked about how much they

feel ‘Kosovar’ is sufficient to offend a Kosovo Serb. Saša Ilić, the head of Centre for Peace and Tolerance and KPAN -an umbrella organisation for Kosovo Serb civil society- indicated how far Kosovo Serbs were from accepting the project of creating a civic Kosovar identity:

Kosovar? Who is Kosovar? There’s not an identity called Kosovar. There are Serbs and Albanians in Kosovo and Metohija⁸⁷.

Similarly, the head of the largest Serb party –the Independent Liberal Party (SLS)⁸⁸ - in Kosovo Slobodan Petrovic states that “the concept of Kosovar means a person who lives in Kosovo. This is a literal translation from Albanian and it is not the name of nationality or ethnicity for the people of Kosovo”⁸⁹. The imposition a Kosovar identity which is shared with Albanians equals assimilation and violation of the basic rights for Kosovo Serbs. Similar to Albanians, Kosovo Serbs continue to utilise exclusively-Serb symbols as seen in the pictures below. Contrary to the Albanian use of Kosovar symbols along with the Albanian ones, Kosovo Serbs assert their separate identities and reject the ‘artificial’ ‘Kosovar’ identity by only using exclusively Serbian symbols:



A mural of Ratko Mladić the Bosnian Serb general who is currently on trial at the Hague for war crimes and crimes against humanity for Srebrenica massacre, in Zvečan/Zveçan, a Kosovo Serb area. Source: (Geoghegan 2013)

⁸⁷ Author’s interview with Saša Ilić, CPT, May 2011, Gračanica/Graçanicë.

⁸⁸ SLS only has contact with Serbs living in the southern enclaves. The party consolidated electoral support in the last elections and its leader serves as Deputy Prime Minister and Minister of Local Government in the government.

⁸⁹ Interview with Slobodan Petrovic, December 2011, available at: www.sls-ks.org.



Serbian flag and symbols in North Mitrovicë/Mitrovica, Source: (Geoghegan 2013)

The study of the process of legitimization through local ideas and ideologies demonstrates that the broad based support for EU norms is conditional upon the limited local interpretation of certain principles and objectives that are central to the EU normative framework in accordance with local priorities and ideologies. It is difficult to claim that the new Kosovar identity is always a result of unconditional support and adoption of the EU values as sought by a small circle of Kosovar Albanian intellectuals (i.e. Kosovar = European). The local nationalistic ideology has attributed an exclusively Albanian character to 'the Kosovar'. Kosovar identity is inspired by the European norm of supra-national identity to meet the demands of the EU and the international community, but it has monopolised adopted by the majority group, i.e. Albanians.

To sum up, looking at the legitimization of the EU framework through local ideas and ideologies, local values and loyalties such as identity are powerful in reinterpreting the EU norms. There are various consequences of such a reinterpretation for the EU's conflict resolution role in Kosovo. The official subscription to European norms or even strong and broad support for EU integration does not prevent the local groups to re-interpret, tailor and offer alternative ideas in accordance with perceptions, values and priorities. In the end, such reinterpretations transform the EU norms and provide a distorted adoption and support for them than the EU actually conceives. In the case of Kosovo, the Kosovar

identity was invented as a response to international, especially the EU, pressure to abolish the dominant Albanian identity. The 'Kosovar' is adopted by Albanians as the only path for independence and integration with Europe. However, the persistent European references attached to it did not prevent local groups to portray 'the Kosovar' through exclusively Kosovo Albanian suffering and to construct a dominantly Albanian state⁹⁰. 'Kosovar' Albanians continue to see themselves as the 'real' victims of the conflict who now deserves a place in EU after years of asylum seeking, illegal immigration, and diaspora forming in Europe.

Moreover, the majority Kosovo Albanians have tailored the supra-ethnic references in 'the Kosovar' and further contributed into the fragmentation between Albanians and Serbs of Kosovo. In this sense, contrary to the European norms that inspired supra-ethnic identity building, Kosovar identity is shaped by a further differentiation of Kosovo Albanian and Kosovo Serb identities. As a reaction, Kosovo Serbs reproduce and maintain exclusive Serb nationalism through national symbols. Given the lack of genuine local support for ethnic-reconciliation and civic identity building, Serbs and Albanians continue to define themselves by means of traditional ethnic symbols (flags, pictures of war heroes, slogans etc.) and loyalties which hinder the development of a genuine multi-cultural and supra-ethnic identity emulating the EU as a role model.

5.4 Legitimation through Procedural and Participatory Qualities

In this section, legitimation through procedural/participatory qualities is assessed by looking at (i) deliberation or consultation channels between the EU and local groups through the case of the mandate and deployment of EULEX and (ii) the transparency and accountability of EULEX's activities on the ground. Legitimation through procedural/participatory qualities has a prescriptive nature, since it requires the specific representations and policies of the EU to comply with the standards of transparency and answerability to the local audience and to allow local participation. In this sense, whether locals are given an opportunity to express demands, needs and preferences and to what extent EULEX delivers transparent, inclusive and accountable governance in Kosovo are central indicators of generating local specific support through procedural/participatory

⁹⁰Kostovicova offers an excellent work on Albanian identity in Kosovo and its historic and political construction through education and mobilisation. Seen from a historical perspective, it is more understandable how Albanian identity is just re-produced with 'Kosovar' facing international/EU pressure. Kostovicova, D. (2005). *Kosovo : the politics of identity and space*. London, Routledge.

qualities. The existence of mutually-accepted burden-sharing and local participation during policy-making would also have a positive impact on local satisfaction with the outcomes.

5.4.1 Kosovo's Constrained Sovereignty and the Deployment of EULEX

On 13 June 2008 Kosovo Sot, a local newspaper, came with a headline referring the on-going 'reconfiguration' efforts of UNMIK as 'reconfusion' due to the confrontation between the Kosovo government and the EU surrounding the legal basis of the Union's rule of law mission (EULEX) in the post-independence period ⁹¹. The editorial piece appeared right after the UN Secretary General (UNSG) reported to the Security Council and informed the Serbian and Kosovar governments in June 2008 about the new deal reversing what had been offered previously by the Ahtisaari Plan in terms of the role and mandate of the mission (see Section 4.2.2 for the original mandate). According to a new agreement between the EU, the UN and Serbia, EULEX would now "perform an enhanced operational role in the area of rule of law under the framework of Resolution 1244 (1999) and the overall authority of the United Nations"⁹². Known as the Six-point plan⁹³, the deal reversed EULEX's mandate and placed the mission under status-neutral mandate and re-approved UNMIK's authority (stating that UN Security Council failed to reach a new agreement to replace the Resolution 1244). Put simply, EULEX has become a mission under the UNSCR 1244 which acknowledges the territorial integrity of Serbia. The deal was a result of Serbia's rejection to allow deployment of a new mission under the Ahtisaari Plan terms which were rejected by Russia at the UNSC. The Six-point Plan also gave extensive rights to Serbia to control policing, customs, justice, infrastructure, border and transport in Kosovo Serb dominated areas (Dzihic and Kramer 2009: 16).

Prepared to work with EULEX as an independent state, the reconfiguration and concessions to Serbia came rather as a surprise to the Kosovo Albanian public and the government. With the declaration of independence, the issue of self-determination and sovereignty was resolved once and for all for Kosovo Albanians. The previous protectorate status of Kosovo under UNMIK administration was clearly rejected and the maintenance of sovereignty and self-sufficiency became the utmost priority of the government. In the new period, as the biggest foreign presence, EULEX was seen as a partner organisation set

⁹¹ Kosovo Sot, 13 June 2008, "Reconfusion".

⁹² UNSG (24 November 2008). Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo. S/2008/692.

⁹³ Six points refer to six controversial areas -police, justice, customs, borders, Serb orthodox religious heritage, transportation/infrastructure- are considered within the scope of reconfiguration.

up to assist and oversee judicial authorities, police and customs in order to support independent state-building in Kosovo.

The local leadership, the civil society organisations and the Albanian community acknowledged EULEX's authority directly deriving from the Ahtisaari Plan (which assured independence of Kosovo and the end of the international administration). The Kosovo Constitution was considered as the main difference that distinguished the mission from UNMIK. This was the main reason for the Kosovar authorities to tolerate the executive responsibilities of EULEX as a part of its supervisory role (see 4.2.2 on the executive tasks of EULEX). Especially, the government officials initially emphasised that the EU mission was deployed through authorisation by the Kosovo government⁹⁴. For example, the Prime Minister Thaçi stated that after the declaration of independence, the protectorate status of Kosovo was over and Kosovo would not be willing to accept another external rule:

the mission of UNMIK is definitely over ... now the EULEX mission and the authority of the institutions of the Republic of Kosovo are the legitimate authority⁹⁵.

It was not only the political elites, but also the rest of the local groups were strictly in favour of UNMIK's total replacement by EULEX with its mandate defined by the Ahtisaari Plan. In a commentary piece in *Koha Ditore* on 19 May 2008, a few months after the declaration of independence, Augustin Palokaj wrote that "UNMIK's officials could stay in Kosovo only as tourists. In case there were some more work for them, that would mean a huge failure for the Kosovo authorities and for the EU. Kosovo would face a legal chaos, worst then it was under the status-quo during the eight years"⁹⁶.

Given the initial assurance that EULEX would respect Kosovo's independence and replace the international administration, the locals accepted EULEX and its extensive mandates. However, EULEX's novel mandate was interpreted as a total ignorance and disrespect for Kosovo's sovereignty. The reasons for this perception were manifold. First

⁹⁴ *Koha Ditore*, 25 April, 2008, "Sejdiu: EU Mission Shorter Than UNMIK".

⁹⁵ PM Interviews, 24 December 2008, available at <http://www.kryeministri-ks.net/?page=2,1>. However, this was the assumption of the government. The end of UNMIK was foreseen in the Ahtisaari Plan; but, given the failure of reaching a new agreement by the Security Council, the Report of SG on UNMIK 12.06.2008 (S/2008/354) stated that the UN Resolution 1244 remained in force until it was annulled or replaced by UNSC.

⁹⁶ *Koha Ditore*, 19.05.2008, Augustin Palokaj, "UNMIK go Home!"

of all, EULEX's mandate was altered without any consultation with the Kosovar authorities, despite the existence of a previous agreement between Kosovo and the EU. This lack of consultations with local authorities was revealed in a statement given by then Kosovo President Sejdiu:

[E]verything [that is related to Kosovo's independence] is expected to be defined in the high-level diplomatic meetings which were being held between the United Nations the European Union and NATO⁹⁷.

Similarly, Kosovo Deputy Prime Minister Hajredin Kuci admitted that "Kosovo could not influence UNMIK's and EULEX's fate, despite that Priština/Prishtinë would like EULEX to be established as an EU mission and not as a mission under UNMIK's umbrella"⁹⁸. Local politicians' statements have informed the public that the EU was not interested in consulting Kosovo's elected representatives. This statement conveyed the same message to the public that the EU would disregard the initial promise and ignore the public's expectations and demands from EULEX.

Second, the reconfiguration was perceived as an evident disregard for Kosovo's sovereignty, and it generated unified reactions from local civil society and the government that the EU has changed its role 'without Kosovo's consent'⁹⁹. Politicians and civil society organisations claimed that the EU's behaviour was unethical and thereby, unacceptable. For instance, then Foreign Minister Skender Hyseni stated that "Kosovo is not against the international community and we are interested in co-operating closely with them. But we don't recognise the plans which threaten our sovereignty" (cited in Foniqi-Kabashi 2008). Iniciativa Kosovore për Stabilitet (IKS)- a local think tank supported by the European Commission- noted while EULEX was "rewriting its own job description for a continuing presence for an undefined period", it would be worth remembering the lessons from unpopular UNMIK in order not to degrade the EU's credibility and authority in a similar way (IKS 2008).

Third, the unexpected concessions to Serbia were considered a breach of the initial EU promise and thereby, illegal since it was contrary to what the EU had previously committed. According to the Ahtisaari Plan, UNMIK would transfer all its responsibilities

⁹⁷ Koha Ditore, 30.04.2008.

⁹⁸ Zëri, 30.05.2008, "Pristina prefers the end of UNMIK's mandate, but feels powerless"

⁹⁹ Author's interview, Jeton Zulfaj, NGO Celnaja, May 2011, Priština/Prishtinë.

and cease to exist. The Plan was drafted in close collaboration with EU Planning Team (Section 4.2.2) and became a part of the Kosovo Constitution after the declaration of independence. Relying on this commitment, the Kosovo government assured the public that there would be no UNMIK-EULEX mixture but only the EU working along the independent local institutions¹⁰⁰. For instance, commenting on the presence of the EULEX mission Thaçi stated that the mission was “fully mandated by the European Union as a supporting and advising mission to promote the perspective of Kosovo in its path towards Euro-Atlantic integration. Therefore, international support should always be welcome, should be appreciated and also invited by our institutions, in order to have a joint, not separate way ahead”¹⁰¹.

When reconfiguration was announced, the Kosovo government and civil society organisations were united to claim that the extension of UNMIK mandate was illegal because it contradicted the Ahtisaari Plan and the Kosovo Constitution. The Chairman of the Assembly Jakup Krasniqi overtly challenged the EU in front of the local media by stating that “[w]e consider that the pressure exercised on Kosovo institutions from the UN and Brussels is undemocratic and against the Constitution of Kosovo. Any attempt to change what is written in the Constitution is vain” since “the right to change the Constitution belongs explicitly to the Assembly of Kosovo”¹⁰².

Besides the government, local civil society and the opposition were also vocal to emphasise the illegality of the EU’s action. The Kosovar Institute for Policy Research and Development (KIPRED) argued the Six-point Plan practically limited Kosovo’s sovereignty in Serbian enclaves and north Mitrovicë/Mitrovica and what was proposed by the EU under the Ahtisaari Plan for the C/ESDP mission and what was agreed and implemented on the ground were not the same¹⁰³. Similarly, the Kosovo Academy of Sciences and Arts issued a communiqué claiming that Kosovo’s independence and sovereignty was illegally hurt by the new action¹⁰⁴.

The opposition parties also blamed the government and the EU as committing an illegal action. For instance, Social Democratic Party of Kosovo (PSDK) leader and former Prime Minister Agim Çeku argued that the Six-point plan risked Kosovo’s integrity and

¹⁰⁰ Zëri, 21.05.2008, “There will be no UNMIK and EULEX mixture, but only one decision-making centre”

¹⁰¹ Voice of America interview with Hashim Thaçi, 24 December 2008, available at <http://www.kryeministri-ks.net/?page=2,107,90>.

¹⁰² Koha Ditore, 12.11.2008, “Krasniqi: UN and Brussels pressure is undemocratic”

¹⁰³ Author’s interview with Adem Gashi, op. cit.

¹⁰⁴ Zeri, 15.11.2008.

declared that ‘there can be no other plan but the Ahtisaari Plan, which was transformed into the Constitution of Kosovo’¹⁰⁵.

Fourth, besides criticisms on legal and ethical grounds, some politicians also claimed that the Six-point Plan would create practical obstacles for EULEX and the Kosovo institutions to work efficiently. For instance, the opposition leader Ramush Haradinaj argued Kosovo’s Albanian government had already incorporated EULEX into its constitution as stated in the Ahtisaari Plan, but had to work under the conditions of a power vacuum in the north and the unknown continuous presence UNMIK¹⁰⁶. Similarly, Koha Ditore quoted the Deputy Prime Minister Ramë Manaj as saying that

[w]e know what our request is. EULEX cannot be indifferent toward the reality in Kosovo; it cannot be status neutral. EULEX will not be able to implement any of its tasks if the whole Ahtisaari Plan is not implemented¹⁰⁷.

There were also widespread concerns as argued by Veton Surroi, a Kosovar Albanian politician and the editor of biggest daily Koha Ditore, that “the balance between local governance and international governance still remains open ... Such a combination can create conditions or an alibi for an irresponsible government and uncertainty in the country’s economic development’¹⁰⁸.

Under these widespread reactions from the local politicians and the civil society organisations, the resentment and frustration of the Kosovo public has shifted towards the EU from UNMIK slowly but steadily after Kosovo declared independence in February 2008. Given the lack of transparent knowledge of the process and government complaints about the lack of a meaningful deliberation about the future of Kosovo’s supervised independence between the government and the EU, the IKS (2008) described the situation in the post-independence period as the ‘most hazy and unclear’ for the public since the end of the conflict in 1999 (when international actors unfolded on the ground). The local newspapers started a campaign of shaming and blaming the EU for betraying the initial agreement, acting against its own commitment and offering a ‘second class independence’ for Kosovo¹⁰⁹. From February 2008 onwards, a lack of a joint EU stance on Kosovo’s

¹⁰⁵ Koha Ditore, 15.11.2008, “Çeku: A plan for partition”

¹⁰⁶ Koha Ditore, 13.11.2008, “Haradinaj: EULEX deployment only in line with Constitution of Kosovo”

¹⁰⁷ Koha Ditore, 30.09.2008, “UNMIK regulations in the north, the Constitution elsewhere”.

¹⁰⁸ Koha Ditore, 01.07.2008.

¹⁰⁹ Kosovo Sot, 03.01.2008, ‘Kosovo with second class independence’.

independence and the delay of the deployment of EULEX became a recurring theme of discussion in local newspapers and political circles. Especially between May and July 2008, all dailies reflected on the endless ambiguity regarding the EULEX deployment. Newspapers, for at least half a year, cited numerous officials from the EU and the UN, sometimes providing conflicting information which changed from one day to the other and interpreted the developments differently, provided different scenarios regarding the future international presence. Among the headlines, there were statements such as even Pietr Feith (the head of ICR/EUSR) ‘did not know who his boss was’¹¹⁰, ‘EU and UN had no answer about the EULEX mission’¹¹¹, ‘Ban Ki-moon and Solana without a concrete agreement on the EULEX mission’¹¹², ‘Kosovo government was not included in the ongoing consultations’. The public image of EU’s biggest civilian mission was tarnished before the deployment. An editorial piece of *Kosovo Sot* on 30 May 2008 reflected on the general public opinion by referring Kosovo as the ‘Republic of UN’. The author stated that ‘overly bureaucratic’ UNMIK which was overwhelmed by confusion and apathy was ‘lasting in a meaningless way’. He called on the international community which backed Kosovo’s independence to intervene and to ‘avoid an undesirable situation of confrontation between two reigns’¹¹³.

By November, nine months after the declaration of independence, the deployment of EULEX and its mandate was still in limbo. Dailies reported that ‘the godfather of Ban Ki-Moon’s Plan’ (Six-point Plan) was actually the EU High Representative Solana¹¹⁴. The secrecy behind the deal of reconfiguration ignited a widespread conspiracy that the constrained the independence of Kosovo would actually mean a de facto division of Kosovo between Serbian dominated north (where EULEX is a neutral third party) and the south (where EULEX has extensive executive authority) which created further confusion and frustration for the public. For instance, two editorial pieces in *Kosova Sot* highly criticised the EU by stating that the situation could not get any worse. It was claimed that Kosovo was asked to ‘create a de facto mini Serb state’ by the EU and it was ‘the price that Kosovars pay in the end’¹¹⁵. There were plenty of claims that the EU actually intended

¹¹⁰ Koha Ditore, 15.05.2008; Zëri, 16.05.2008.

¹¹¹ Zëri, 26.05.2008.

¹¹² Epoka e Re, 31.05.2008.

¹¹³ Kosovo Sot, 30.05.2008, “Republic of UN”.

¹¹⁴ Kosova Sot, 16.11.2008.

¹¹⁵ Kosovo Sot, 24.11.2008, “Editorial: It cannot get any worse; 26.11.2008, Editorial: The price that we pay in the end”.

to divide Kosovo separating Serb dominated northern municipalities from Kosovo proper and that reconfiguration of EULEX kept ‘the hopes of Serbia and Serbs alive’¹¹⁶.

According to the Kosovo public’s general opinion, the denial of authority sharing with Kosovar institutions in the areas dominated by Serb population was only received as the continuation of the unaccountable and oppressive international administration. Non-governmental organisations and some nationalist groups utilised the public tension and mobilised people for a ‘peaceful no’ against the constrained independence under the new terms. The demonstrators demanded ‘protection of Kosovo’s sovereignty’ and action ‘against its partition’. Before EULEX was made operational, Albanians protested EULEX under the UNSCR 1244 with slogans ‘down with EULEX’ (IKS 2008). *Vetëvendosje*, an anti-UNMIK/EULEX nationalist movement, organised more radical protests throughout 2008. Approximately 40,000 people gathered against the EU mission to express their resistance through ‘massive action’; bottles with red paint were thrown at EULEX and UNMIK properties and the Government’s buildings; piles of garbage collected over a week in the streets of Priština/Prishtinë were left from a truck in front of those institutions, slogans were written on buildings and many cars and buildings of EULEX and UNMIK were damaged (Kurti 2009). Public polls also shows that satisfaction levels with EULEX remained quite low (20-25%) in 2008 when the mission was being deployed throughout the year (UNDP 2008).

The pictures below depict the local perception of EULEX as pro-Serbia and as an extension of UNMIK. They still continue to cover the streets of Priština/Prishtinë today. The mural paintings draw parallels between EULEX and UNMIK and demonstrate the failure of the EU to generate support on the ground, especially at the beginning of its deployment.



Source: Author’s collection, Priština/Prishtinë, May 2011

¹¹⁶ Express, 04.07.2008.

The local attitudes of various governmental and non-governmental groups show that contrary to the initial high profile for the EU's normative framework, EULEX's image was considerably degraded when Kosovo's independence and sovereignty was limited by a top-down decision imposed by the EU and UNMIK when the mandate of EULEX was unilaterally changed in order to secure consent from Serbia. Under these circumstances, EULEX's initial stage of deployment lacked genuine consultation and continuous contact with the local political leadership and other local actors on the ground. As aptly summarised by the Instituti Demokratik i Kosovës (KDI) (2009: 41-2), "the subsequent declarations of Kosovo Albanian leadership that the Six-Point Plan is dead put EULEX in a very awkward position far from the initial warm welcome from Kosovo's population. EU's efforts to save face by achieving the full deployment of EULEX as soon as possible have had the very negative consequence of fatally undermining EULEX's legitimacy".

5.4.2 EULEX Policy-Making: Local Participation, Accountability and Transparency

When EULEX was at the stage of design, the EU paid considerable attention to distinguish it from UNMIK in terms of its policy-making procedures. The mission was designed as a monitoring, mentoring and advising body and promised partnership with local authorities instead of a top-down control of Kosovo's rule of law institutions. EULEX has introduced the co-location principle to encourage formal and informal cooperation and burden-sharing between the mission staff and their local counterparts (see Section 4.2.2). In this sense, from the beginning the mission has aimed to act as an accountable and transparent organisation which has close contact with local stakeholders on the ground. The EU has explicitly acknowledged that it would assume a responsibility for public justification, despite its top-down initiated mandate and executive responsibilities.

Although EULEX relies on formal channels of communication with the government, prioritises the monitoring, mentoring and advising (MMA) functions and limits correctional services (i.e. using its executive power and reversing a local decision or imposing its own policy against local decisions), from a local point of view, one of the problems with EULEX's procedural working is the accountability of individual EULEX staff, especially in the justice component (Palm 2010). The reason for the lack of accountability is that EULEX staff members do not fall under the competence of the Kosovo Judicial Council, although the Kosovo Constitution, which is designed by the

Ahtisaari Plan, requires their full integration into the local judicial system. The Kosovo Judicial Council is tasked to ensure ‘impartiality, independence and professionalism’ of the judiciary in Kosovo. However, the Council is barred from processing disciplinary measures against EULEX judges and prosecutors (Spernbauer 2010). Instead, members of EULEX are subject to internal liability mechanisms (through judicial mechanisms of participating member states and EULEX Internal Investigations Unit) about which the Kosovo public knows little and thereby, continues to believe that EULEX staff is immune from any type of disciplinary or criminal investigations¹¹⁷. For instance, a commentary on a widely followed web blog and magazine *Kosovo 2.0* stated that “EULEX staff are not obliged to follow Kosovan law - they have the same legal immunity that UNMIK staff had here”¹¹⁸.

Given the widespread perception among the Kosovo public that EULEX is immune from any liability arising from their actions in Kosovo, the EU has established the Human Rights Review Panel in 2009 to respond these criticisms and increase the accountability of EULEX staff. The Panel is tasked “to review alleged human rights violations by EULEX Kosovo in the conduct of its executive mandate”¹¹⁹. It accepts complaints from individuals and “renders a finding as to whether EULEX has violated human rights law applicable in Kosovo. When the Panel decides that a violation has occurred, its findings may include non-binding recommendations for remedial action by the Head of Mission”¹²⁰. In other words, it does not have the competence to issue any binding disciplinary measures for EULEX staff. Under these conditions, the Panel can only partially ensure ex-post accountability of the individual EULEX staff. Moreover, there are concerns that the Panel has showed some reservations to accept personal complaints. Out of 25 personal complaints, the Panel only decided 9 of them as admissible while the rest is declared to be outside of the competence of the Panel and/or ill-founded between October 2010 and June 2012¹²¹.

More importantly, the poor procedural qualities are rather about the processes of decision-making which require ex-ante measures to increase accountability and transparency. To give an example, EULEX officials claim that the rule of law mission ensures accountability and transparency through continuous contact with the Kosovo

¹¹⁷ Author’s interviews, EULEX, May 2011, Priština/Prishtinë.

¹¹⁸ Kosovo 2.0, ‘Petting Zoo Rules’, www.kosovotwopointzero.com/al.

¹¹⁹ Human Right Review Panel website, <http://www.hrrp.eu/>

¹²⁰ Ibid.

¹²¹ Cases are accessible at <http://www.hrrp.eu/cases.php>

government. The 2012 programme report states that “EULEX is there to ensure a solid interface between local professionals and the fast changes ongoing in the rule of law system”¹²². However, the problem is that the executive and advising functions of EULEX staff frequently mingle and create a hindrance for an independent judiciary. Namely, EULEX carries out legislation and judiciary actions at the same time¹²³. EULEX staff are involved in the drafting and reviewing of all Kosovo laws and strategic policy documents in line with the co-location principle before they are passed to the Assembly of Kosovo for approval. In other words, EULEX staff shape laws legislated in Kosovo; and the same members of the staff are tasked to execute them later. The simultaneous advising and executive functions not only violates the principle of separation of powers as the basic credential of democratic systems, but also generates a very ambiguous and non-transparent procedure for the workings of EULEX. In this sense, civil society and opposition usually challenge the government and EULEX on the grounds that much of the deliberation is concluded behind the doors before the Kosovo Assembly discusses them¹²⁴. Both EULEX and the government with executive powers often bypasses the Assembly resolutions or treats them as merely “recommendations with no obligatory power” (Deda and Kursani 2012: 4).

In principle, the mission also gives utmost importance to information sharing with journalists and civil society. In this sense, since the early deployment, communicating EULEX’s ‘programmatic approach’ to civil society is considered as an important component of the mission’s openness and answerability¹²⁵. However, the civil society groups perceive the information-sharing activities of EULEX as ‘marketing the mission’; not as ‘a two-way street’ which is open to non-governmental local stakeholders (Hoogenboom 2011). EULEX’s co-operation with local civil society remains ‘largely informal and unstructured’ (Palm 2010). As a result, participation of local civil society organisations in performance evaluations and preliminary meetings of goal settings points to a downward trend. The local civil society organisations explain the declining willingness to engage with EULEX evaluation meetings and activities due to “the EU’s automated tendency to ask civil society opinion and then go its own way”¹²⁶.

¹²² EULEX (2012). EULEX Programme Report 2012: Rule of Law Beyond Headlines.

¹²³ Author’s interviews with EULEX, May 2001, Priština/Prishtinë.

¹²⁴ Author’s interviews with various CSOs, May 2011, Priština/Prishtinë.

¹²⁵ EULEX Press release, 25 March 2009, “This is about partnership”.

¹²⁶ Author’ interview, Agron Demi and Jeton Mehmeti, GAP, May 2011, Priština/Prishtinë. The author’s own experience by attending a meeting between ECLO and civil organisations also confirms the trend. The

Seen from the local point of view, transparency and information-sharing with local media also remains limited. According to BIRN (Balkan Investigative reporting Network) Kosovo, EULEX officials often act in secrecy and request media to stop asking questions and inventing assumptions about the on-going investigations claiming that the need for confidentiality require them not to issue detailed press statements¹²⁷.

The EULEX officials argue that the website of EULEX is a transparent and open-access pool of detailed information about the activities of the mission For the Kosovo public. Nevertheless, some important documents such as concepts of operations and operation plans are not made public which generates more criticism for the lack of transparency (Palm 2010). Moreover, it is quite unrealistic to assume that the rural areas of Kosovo have internet access given the fact that even at the centre of Priština/Prishtinë frequent power cuts are still a part of the daily life. Despite the fact that TVs and newspapers are the only sources for Kosovars to reach information on the activities of EULEX, except brief periods of intensified debates and the appearance of high level EULEX officers on TV channels, the information conveyed to the public is usually based on secondary sources or inconsistent subjective interpretations in accordance with the particular newspaper's or channel's political stance. Direct appearance of EU officials on media channels to address Kosovo Serbs remains even much more limited compared to Kosovo Albanian counterparts. Usually Kosovo Serbs follow the mainstream media from Serbia which conveys their own (distorted) narratives of EULEX. Hence, Kosovo public does not feel adequately informed about the workings of the mission.

To sum up, the procedural and participatory qualities of EULEX displays only a mixed record. Although the internal procedural mechanisms of the mission claims to be committed to a close cooperation with local counterparts thus improving burden sharing with the Kosovo government, involvement of civil society and the Kosovo Assembly in policy-making remain very limited. The transparency of EULEX actions is contentious due to the fact that advising tasks are mingled with the exercise of impartial and independent judicial activities. For the civil society organisations, the Kosovo public and the legislative institutions, EULEX remains opaque and immune from the checks and balances that apply to the local institutions.

Head of Liaison Office Khaldoun Sinno opened up the meeting by expressing his disappointment with the lack of proposals they received from civil society on a number of issues.

¹²⁷ Author's interview Muhamet Hajrullahu, BIRN, May 2011, Priština/Prishtinë.

The result of limited accountability and transparency is a widespread perception among the Kosovo public and civil society that EULEX acts in secrecy and only informs the government about its activities (Bennett and Saferworld 2011). Improved local consultation at the operational level with the formal Kosovo institutions has not secured support from the non-governmental groups for the mission. Contrarily, EULEX often face severe criticisms based on accusations of unaccountable policy-making. For example, ‘*Lëvizja Vetëvendosje*’ (Self-determination Movement) criticises EULEX as an unaccountable institution ‘with diplomatic immunity’, ‘having broad and ambiguous mandate’ and ‘being a new pillar of UNMIK’¹²⁸.

The trial of Kurti by EULEX, who was arrested in 2007 by UNMIK police during a demonstration against the Ahtisaari Plan, has become a publicised symbol of challenge against EULEX’s lack of accountability and transparent trial procedure in Kosovo. Kurti claimed that EULEX violated his right to demonstrate and the freedom of speech. During his court hearing, Kurti claimed that

EULEX has no right to prosecute or judge me, or rule over Kosova: you do not recognise our independence and you are immune from the laws you apply on us. I and VETËVENDOSJE! will continue to not recognise you, and to non-violently resist the imposed international rule in Kosova, including EULEX and its power instruments, like this court. The judiciary this court represents lacks independence, accountability and transparency. A basic principle of sovereignty is that the will of the people gives the law legitimacy: EULEX’s powers, and the powers of this court, are unjust, arbitrary and illegitimate (*sic.*) (Kurti 2010).

As a result, he denied recognising the court composed of EULEX judges. The leader of the movement Albin Kurti noted that

EULEX claims to be a rule of law mission and a dispenser of justice in Kosovo, but it is a symbol of contempt for all principles of fairness and rights. EULEX reveals the undemocratic and colonial nature of Kosovo’s international authorities. Similar to UNMIK, they installed themselves as the supreme instance of authority

¹²⁸ Author’s interview with Albin Kurti, May 2011, Priština/Prishtinë.

and kept the last word on every matter. The lack of accountability of EULEX means that it is reclusive, hegemonic and irresponsible power¹²⁹.

From an analytical point of view, the case of Kurti exemplifies how local attitudes and convictions about EULEX's unaccountability would inhibit local compliance and cooperation. Kurti's 'principled moral disobedience' against an 'unjust and undemocratic authority'¹³⁰, in his words, has drawn a wide public attention to EULEX's procedural irregularities of court proceedings and challenged the normative justifications supporting the EULEX's presence.

5.5 Legitimation through Performance

The EU's engagement with Kosovo conflict resolution exemplifies the Union's active actorness in conflict resolution. A number of different instruments aim at realising the normative objectives of state-building and the final integration prospect of Kosovo into the EU (see Section 4.2). This section aims at analysing the performance-based support for the EU's specific policy-making bodies/institutions and policies by looking at how local groups receive and interpret these policies and policy-makers. It specifically asks 'to what extent the EU implemented the policy objectives and delivered efficient outcomes', 'what are the expectations of local groups and whether the EU performance meets those expectations'. In this sense, two main conflict resolution policies of the EU are assessed closely: the rule of law in Kosovo and the SAP (i.e. SAA and visa liberalisation).

5.5.1 EULEX and Latent Rule of Law

EULEX's main objective is to ensure a consistent rule of law system in accordance with the best European practices. In this sense, the EU has declared 'substantial progress' for the initial operational phase in developing its role and providing technical support to Kosovo authorities¹³¹. However, from a local point of view, EULEX still has major deficiencies on the ground which has prevented the mission from establishing a visible and effective performance that meets the local needs and expectations since becoming fully

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ European Parliament, September 2009, the Directorate General for External Policies, Policy department, 'EULEX Kosovo: lessons learned and future challenges', Brussels.

operational in December 2008. There are two main types of problems identified by the local authorities and the civil society organisations that prevents EULEX from delivering meaningful performance: legal and practical problems obstructing the work of EULEX and the EU's concern with short-term stability over the long-term transformation of Kosovo's institutions. The latter has created a sharp decrease in support and a deeper crisis of authority for the mission.

Firstly, the limbo regarding the mandate and status of EULEX has created practical problems for the delivery of efficient results in the rule of law sector. The EU's definition of the rule of law is clear: every action of a government should be in line with law approved by the relative legislative organ¹³². As discussed previously, the EU has strongly committed to the achievement of a single rule of law system in Kosovo. However, the Six-point Plan was not only initiated without local consent, but also created a duality in the operationalisation of the rule of law commitment on the ground. The European Council Joint Action establishing EULEX concurs with the Ahtisaari Plan and the Kosovo Constitution in principle according to which EULEX would be in partnership with the independent Kosovo institutions. However, according to the Six-point Plan, EULEX operates under the authority of UNMIK which is respectful to the territorial integrity of Serbia. This situation has created two competing constitutional orders in Kosovo to date¹³³. In practice, EULEX has to work under two different systems, i.e. the Kosovo Constitution which incorporates the Ahtisaari Plan in Albanian dominated areas and a mixture of UNMIK and Yugoslav law in Serb dominated areas. After the mission was deployed, it soon became clear that the implementation of applicable law would become a daunting task for EULEX.

The existence of two bodies of law in Kosovo has generated various practical challenges. An example is the Law on Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors. The law was a part of the Ahtisaari Package of Laws which was drafted by the EUPT and then accepted by the Kosovo Assembly in the aftermath of independence. According to the law, EULEX judges and prosecutors are fully

¹³² See http://europa.eu/eu-law/treaties/index_en.htm.

¹³³ According to the Kosovo authorities the applicable law in Kosovo stems from different sources. Kosovo Assembly legislation passed after the Constitution has a hierarchical priority. The judges can also rely on UNMIK Regulations (with supporting Assembly laws) passed between June 1999 and June 2008; laws dated prior to 22 March 1989 (laws passed before Milosevic presidency), and laws dated between 22 March 1989 and 10 June 1999 (Milosevic period) on the condition that they are not discriminatory. Ministry of Trade and Industry, The Legal Guide to Kosovo, October 2010, http://www.eciks.org/english/publications/LegalGuide_2010_Web.pdf.

integrated into the judicial and prosecutorial system of the Republic of Kosovo in order to avoid two parallel judicial systems (international and local). As a result, the responsibilities of EULEX judges constitute an organic part of the Kosovo judiciary to assist the local legal system and to ensure implementation of Kosovo law (i.e. legislated by the Assembly of Kosovo). EULEX justice staff are granted responsibilities of investigation, prosecution and adjudication alone or in joint panels with Kosovo local judiciary staff (Muharremi 2010). On the other hand, under the Six-point Plan, EULEX judges could not be integrated into the independent Kosovo institutions, since EULEX is neutral towards Kosovo's independence and therefore cannot become an integral part of the judiciary of independent Kosovo. As an implication of its neutral status, EULEX judges are also prevented from applying Kosovo law legislated by the Kosovo Assembly.

As a result, cases pending for a verdict by EULEX judges initially increased due to delays. To give an example, in a judicial case about the Kosovo Trust Agency (KTA), an EULEX judge had to ask the opinion of the SRSG related to the applicable law, the legal status of the KTA and the Kosovo Assembly. The irony is that EULEX judges are granted the mandate to deal with the KTA case according to the Kosovo Constitution and the Assembly's decision and both the Ahtisaari Plan and the Kosovo Constitution foresee that the SRSG is no longer the highest authority¹³⁴. But since EULEX claims to act as a status-neutral body, the judge was compelled to clarify the situation with the SRSG.

Such practical complications delay the development of a body of uniform applicable law in Kosovo as a crucial element of a rule of law system. In order to bring a practical solution to the confusion, each judge is given discretion to choose the body of applicable law in dealing with cases¹³⁵. In other words, the mission's role and mandate varies depending on the ethnicity of the person that the EULEX deals with. In other words, Kosovars do not know in advance which body of law would be applicable in their situation before opening a case or between their detention and indictment¹³⁶. Usually, whilst Albanians are subject to the Kosovo Constitution and joint EULEX-Kosovo Assembly legislation in Albanian dominated areas, in Serb regions in the north, EULEX applies a mixture of Yugoslav codes or UNMIK law adopted between 1999 and 2007 (Grevi 2009). Moreover, Kosovo Serbs usually prefer appealing to parallel courts sustained by Belgrade.

¹³⁴ In fact, SRSG's authority is denied in independent Kosovo's judicial and legislative system and local authorities reject to have any communication with UNMIK since declaration of independence. See UNSG (24 November 2008). Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo. S/2008/692.

¹³⁵ Author's interviews, EULEX, May 2011, Priština/Prishtinë.

¹³⁶ Author's interviews with several CSOs in Kosovo, May 2011, Priština/Prishtinë.

The lack of a standard body of law is essentially against the logic of rule of law which is the main objective of EULEX.

In relation to the customs component of EULEX, the applicable rules and regulations are even more complicated. While in the justice component, individual judges can decide the applicable law, EULEX, as a status-neutral actor in the Serb areas, cannot consider customs gates in the north as the legal border dividing Kosovo from Serbia. Therefore, EULEX customs officials are unable to collect customs tax in accordance with the law issued by the Kosovo Assembly¹³⁷. The spokesperson of EULEX customs declared that the problem 'is not an issue of customs but a political issue, it is not in the scope of EULEX which is a technical mission'¹³⁸. As a result, EULEX has so far failed to prevent smuggling and illegal items' trade, the basic objective of the EULEX customs department. Moreover, the spokesperson degraded the mission to merely a technocratic institution which, for the Kosovo public, would equal denying the evident executive responsibilities of EULEX as the sole customs authority in the northern regions where Kosovo borders Serbia.

In sum, the initial lack of coherence in the legal status and mandate of EULEX prevented the mission from achieving its basic objectives. In the absence of a tangible progress in establishing a single body of applicable law has generated much criticism from civil society. For example, IKS (2008: 11-2) has raised many questions in relation to hardships that the mission would face at the implementation phase:

How can EULEX remain status-neutral and simultaneously deliver on its mandate to support the implementation of the Ahtisaari Settlement? How can EULEX provide 'mentoring, monitoring and advice in the area of the rule of law' when it does not recognise Kosovo laws and Kosovo authorities as the only legitimate source of legislative power? How can EULEX effectively fight organised crime when it fails to deploy throughout Kosovo?

¹³⁷ This situation has recently changed when the Kosovo Customs has taken control of two important customs point with the help of KFOR after June 2011 clashes. Kosovo and Serbia have concluded an integrated border management agreement in December 2011. However, the situation on the ground is not totally clear. The Kosovo Serb inhabitants are strongly against the agreement and the Kosovo Customs' control of the crossing points. The implementation of the integrated border management agreement should be closely assessed in order to make a decisive comment.

¹³⁸ Koha Ditore, 10.04.2009, 'EULEX without a plan to restore customs authority in the north'.

Another local think-tank the Balkan Policy Institute (IPOL) argued that the development of the justice system has remained far below the mission's initial objectives in its evaluation of EULEX after two years since deployment. The report notes that the huge amount of cases queuing for hearing has already convinced the public that EULEX is a continuation of UNMIK (2010a; 2010b).

Such complications are well-known facts in Kosovo thanks to the wide coverage of national newspapers. For instance, *Koha Ditore*, the most circulated newspaper, often reports that none of the institutions in Kosovo including the local ones possess a clear picture of the applicable body of law in the country, although the biggest challenge for Kosovo is the establishment of the rule of law. For the people of Kosovo, the current situation “has even led doubts that the pledge of leaders for rule of law is only media advertisements”¹³⁹.

Secondly, the EU's initial commitment to establish the rule of law different from the UNMIK initially fed high local expectations. Especially, the civil society and public expect that EULEX would address the problems that UNMIK could not or did not want to tackle, especially in terms of fighting against corruption and clientalism embedded in the Kosovo political system and bureaucracy. Soon after EULEX was deployed, such high expectations started to clash with EULEX's constrained mandate on the ground. More importantly, rather than portraying EULEX as a part of the solution to the on-going political problems in Kosovo, the mission has a tendency to emphasise its apolitical/technical character and status as a neutral body (Peters 2010). In other words, the EULEX has been separated from the EU's holistic political engagement in Kosovo (through strict SAP conditionality one of which is strengthening the rule of law and democracy and the fight against high-level corruption) from its biggest civilian mission. This separation has generated local confusion and decreasing local support for EULEX.

The fight against corruption is an exemplary case to discuss how unfulfilled local expectations can generate serious challenges towards the EULEX's authority. The regular UNDP public surveys reveal that corruption is persistently perceived as one of the key problems by the public. It is considered as the third biggest problem threatening stability and economic progress after unemployment and poverty (UNDP August 2012; UNDP September 2011). According to these reports, the majority of the people think that there is widespread corruption in Kosovo based on personal or relatives/friends experience or

¹³⁹ *Koha Ditore*, 14.12.2008, ‘A state without a legal framework’.

through media information (UNDP 2012). Moreover, the Kosovo public also thinks that the large scale corruption involved mostly various public institutions including courts, police, tax administration body, municipalities, and customs authorities (UNDP February 2013). As a result, the public lacks trust in the government's willingness to tackle with it and expects EULEX to take more responsibility in the fight against corruption. It is worth to note that the EU is partially responsible for this public attention through a recurring emphasis on widespread corruption in the Commission Progress Reports and the statements of the high-ranking EU officials¹⁴⁰. Moreover, the Commission funds and supports the local civil society organisations which offer advice and information on the fight against corruption¹⁴¹.

Nevertheless, the performance of EULEX in dealing with corruption has so far remained far below the local expectations in terms of assuming more responsibility in the fight against corruption. In April 2010, EULEX Police raided the Ministry of Transport, Post and Telecommunications and arrested the Minister Fatmir Limaj and the head of the Procurement Office Krasniqi for charges of corruption. The Kosovo public was convinced that EULEX would continue investigations to reveal additional suspects in other ministries, following the statements by the Chief Prosecutor of the EULEX police. Since April 2010, there were only limited investigations, although six other ministries were initially named by the Chief Prosecutor for further investigations on corruption charges.

Lately, the charges against Limaj were suspended regarding the corruption allegations and he is currently being tried for war crimes. The Kosovo public perceive this move to escape from further investigation of high level corruption related to the Limaj case in order not to destabilise the current political balance in Kosovo¹⁴². In other words, EULEX's focus on war crime cases is seen as an evasion from the responsibility to deal with the actual problems of Kosovo. The recent shift of EULEX investigations from corruption to war criminals and the arrest of the former KLA fighters has even triggered a cycle of demonstrations against EULEX calling the mission to deal with the urgent problem of corruption in Kosovo rather than with the crimes committed in the past (Visoka 2011).

¹⁴⁰ Commission (2009). Kosovo 2009 Progress Report. COM (2009) 533. E. Commission. Brussels, European Commission, Commission (2010). Kosovo 2010 Progress Report. COM (2010) 660. E. Commission. Brussels.

¹⁴¹ EULEX (2012). EULEX Programme Report 2012: Rule of Law Beyond Headlines.

¹⁴² Author's interview with Adem Gashi, KIPRED, op. cit.

Another example where EULEX's credibility in dealing with high-level fraud was called into question was the arrest of the governor of Kosovo's Central Bank Hashim Rexhepi in July 2010. Rexhepi was detained for four months under allegations of corruption by EULEX. The issue was publicised because it was known that the government and the head of the Central Bank did not agree on many issues. The allegations were based on secret evidence, anonymous letters that were first publicised by the pro-government media. Under these circumstances, it took more than a year to issue the indictment for EULEX. Eventually, in January 2012 all charges against Rexhepi were dismissed (Capussela 2012). Many people believed that the current government manipulated EULEX's lack of experience and knowledge of the local context to eliminate Rexhepi. Overall, the processing of the case was perceived as an unfounded arrest and revealed the incompetence of EULEX to understand and deal with the local realities in Kosovo.

Contrary to the public expectations, the fight against corruption has also become a battleground between EULEX and the Kosovo authorities (Assembly and the government) where the latter could manipulate legal rulings, depict EULEX as creating unconstitutional demands and gain political/legal victory vis-à-vis its political rivals. In 2010, the Prime Minister Thaçi stated that EULEX was seen as 'a partner' and implicitly 'warned' the mission not to supervise the Kosovo authorities:

[A] new chapter in Kosovo's history has started. The process of the independence supervised by the internationals has been successfully concluded. Now a new chapter is opening. We are becoming more sovereign and we should act with less supervision. In this process, we will be supported by the international institutions, like EULEX is now doing – but which will have an advisory role. Kosovo does not look for confrontation with them but for their cooperation, because we are partners¹⁴³.

Regarding the arrest of senior officials, the PM asserted that the arrests sent out a message that "Kosovo's institutions were at war with the international institutions" and claimed that the International Civilian Representative (ICR) Pieter Feith had interfered in the judicial

¹⁴³ PM interviews, 31 July 2010.

system¹⁴⁴. The Prime Minister's statement was supported by the speaker of the Assembly Jakup Krasniqi calling the raids of EULEX a "spectacle", and he questioned why EULEX had not "simply asked for the necessary documents"¹⁴⁵. These statements show that while the Kosovo public and civil society expects EULEX to take further action using its executive powers on Kosovo authorities more assertively, the government attempts to eliminate any interference by emphasising the advisory role of the rule of law mission.

In 2011, EULEX asked the Kosovo Assembly to adopt a resolution to call the Constitutional Court to clarify the immunities of the members of the Assembly in order to start the corruption trial. However, the Assembly rejected EULEX's request simply as outside the scope of its powers. Later, EULEX attempted to unofficially organise the parliamentary groups to call the Assembly to take action for a similar demand. However, this attempt was publicised by the Assembly speaker as 'unlawful and unconstitutional' intervention by EULEX into the Kosovo politics¹⁴⁶. Despite several warnings from Brussels calling local institutions to cooperate with EULEX, the tension between EULEX and the Assembly climbed after a number counter statements were issued by EULEX and the government officials in relation to the question of immunities.

Eventually, Thaçi intervened personally to request the relevant clarification from the Constitutional Court by stating that the issue would 'contribute to Kosovo's Euro-Atlantic integration'¹⁴⁷. The issue was taken to the Constitutional Court which ruled that the members of the Assembly could be detained and arrested even when they were performing their duties. However, the Court did not extend the ruling to ministers¹⁴⁸. The decision was interpreted by the opposition as a clever intervention by the government in the judiciary that aimed to eliminate Thaçi's rivals (members of the Assembly from the opposition), but not his ministers by manipulating EULEX's demand to clarify the issue of immunities.

Overall, the EULEX's perceived incompetence to deal with corruption among high-ranking politicians has become an incipient case for the public to believe that EULEX is not only unable but also reluctant to take action, especially given the divisive statements between the Kosovo government and EULEX. Another consequence of weak support for EULEX on accountability, transparency and local participation grounds is that EULEX

¹⁴⁴ Balkan Insight News Report, 7 May 2010, "EULEX: Limaj Could Face a Long Jail Term".

¹⁴⁵ Op. cit. Balkan Insight.

¹⁴⁶ Zeri, 09.07.2011 and Koha Ditore, 14.07.2011

¹⁴⁷ Koha Ditore, 21.07.2011

¹⁴⁸ Koha Ditore, 22/23.09.2011

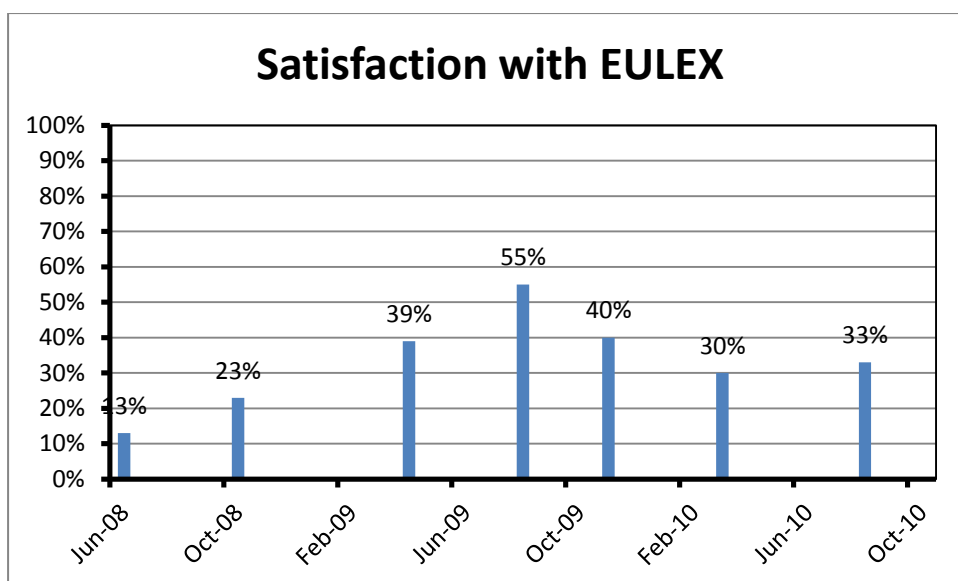
officials turn increasingly defensive and underline the programmatic and technocratic aspects of the mission's components with a reference to local ownership. However, the persistent emphasis on a 'hands-off' and technocratic approach have created a further division between the local groups (especially public and civil society) and EULEX affecting the performance-based support for the EU. Facing criticisms that EULEX has stepped down in taking action against the high-ranking officials, the then Head of Mission Yves de Kermabon has declared that the "local authorities are in leading position. We will monitor, advice and guide our colleagues in police, justice and customs but it is up to them how they will provide rule of law for the citizens of Kosovo"¹⁴⁹. In another speech, de Kermabon noted "EULEX is not here for its own success but rather for the success of Kosovo. We assist you but we don't do your job instead of you"¹⁵⁰.

As seen from the Head of Mission's statements, EULEX responds to challenges by more prioritising local ownership as the main objective and more emphasising technocratic character of the mission. In this sense, the EU has found it difficult to tackle two incompatible objectives of the mission: fighting against corruption to establish the rule of law and local ownership. EULEX evidently promotes local ownership and prefers to remain as an apolitical and technocratic mission.

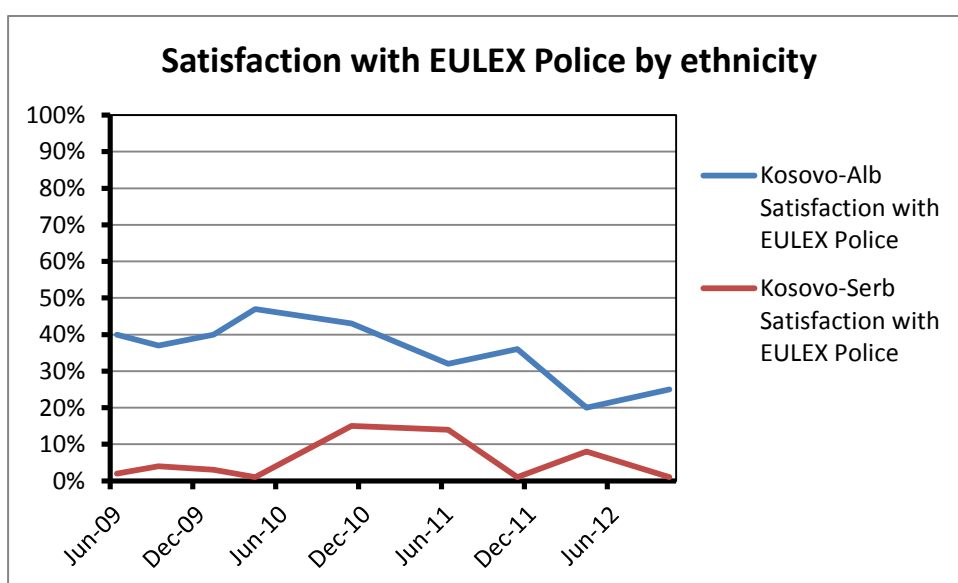
However, a blame discourse and emphasis on local ownership does not prevent the downward trend in public satisfaction with EULEX. As shown in the graphs below, the public satisfaction with the overall performance of EULEX generally remains below 50% according to the regular UNDP Kosovo surveys: Since the mission was deployed in 2008, except a brief period after EULEX has become operational, public survey point to decreasing levels of satisfaction with the mission. Moreover, the evaluation of the EULEX Police by Kosovo Albanians and Kosovo Serbs also shows an overall lack of satisfaction with the mission's police department:

¹⁴⁹ Koha Ditore, 07.04.2004, 'De Kermabon: Rule of law, a responsibility of Kosovars'

¹⁵⁰ Press Statement, 'Kermabon: Kosovo's success is our success', 22 April 2010, available at: <http://www.eulex-kosovo.eu/en/news/000217.php>.



Source: The percentages are taken from the UNDP Early Warning Reports 2008-2010. These reports used to have a section on the overall public satisfaction with EULEX. After 2010, UNDP Kosovo has changed the methodology of public surveys and excluded 'satisfaction with EULEX' section. For the data: (UNDP April 2009; August 2009; August 2010; June 2008; March 2010; November 2009; October 2008)



Source: The percentages are taken from UNDP Kosovo Public Pulse Reports 2011-2013. (UNDP August 2012; February 2013; March 2011; March 2012; September 2011).

More importantly, the decreasing levels of satisfaction with EULEX has lately turned criticisms away from solely structural deficiencies and dissatisfaction with the performance towards more foundational challenges for the EU's overall presence on the ground. Non-governmental groups do not agree that EULEX resorts to a local ownership argument for benevolent reasons, but just to evade its main responsibilities. Given the huge

gap between EU's commitments at the Vienna negotiations and at the deployment stage of EULEX and the lack of efficient EULEX performance, the Kosovo public and civil society perceive a lack of political will on the side of EULEX to engage with the root causes of underdevelopment of the rule of law in Kosovo in order not to destabilise Kosovo under the authority of the current political elite. For instance, the local newspaper Zeri reported in 2010 before the general elections that EULEX 'gave its word' to evade from further investigations of corruption until a new government is consolidated¹⁵¹ as agreed between EULEX and the Kosovo leadership¹⁵². In the view of the Kosovo public, the lack of proper results to fight against organized crime and corruption in Kosovo "is only encouraging local officials to not do anything in this respect"¹⁵³.

Civil society is also critical of EULEX in terms of its ability and willingness to tackle corruption and de-stabilise the corrupt political system in Kosovo¹⁵⁴. Perceiving a clear evasion by EULEX in dealing with high-level corruption, the civil society organisations interviewed on the ground also argued that EULEX prioritises stability over the development of the rule of law in Kosovo. For instance, the youth movement '*Lëvizja FOL*' ('Speak Up!') argues that the EU's role in dealing with corruption has only created 'a blame game' between local and international actors:

It seems the concept of corruption in Kosovo possesses many features similar to 'terror' in the lexicon of the Coalition of the Willing: an all-permeating rampant and remorseless threat to society, and all-purpose excuse to propagate counterproductive policies (FOL no date).

According to Deda and Kursani "there is a strong partnership between the illegitimate local political elite in power and international stakeholders" and the local public perceives this 'local-international partnership' as 'untouchable and unchangeable' by the standard of democratic instruments (Deda and Kursani 2012: 3). This partnership is also seen 'immune from being held accountable'. A comment Kosovo 2.0 Blog/Magazine also confirms Deda and Kursani's argument about public support for EULEX:

¹⁵¹ Zeri, 27.12.2010, "Politics delays arrests".

¹⁵² Zeri, 02.12.2010, "EULEX in a moratorium".

¹⁵³ Zeri, 25.06.2009, "United in Corruption".

¹⁵⁴ Author's interviews with CSOs, May, 2011, Priština/Prishtinë.

If EULEX took itself seriously ... [i]t would know that the rule of law doesn't mean tolerating no-man's lands and legal black holes. It would also know that missions invited to enforce the rule of law don't run away when things get hard. Or is this beyond the scope of Europe's policing and legal elite? Let's ignore for a moment the fact that EULEX is status neutral. I, along with everyone else, remember when EULEX entered Kosovo. And I, along with everyone else, remember the promises made. So what happened? Did it get too difficult? What's that sinking disappointing feeling in my stomach? Oh right, it's the same feeling I had near the end of UNMIK's time. I'd rather take my own government's corruption any day than see yet another international paper pusher clogging up Prishtina's streets¹⁵⁵.

As a result of this perception of an opaque partnership between EULEX and the local political elite in favour of the status quo, the public and civil society organisations have lost trust in both regarding their willingness to tackle the deep problem for the sake of stability. The loss of the mission's objectives and interest has become a common reference by a prominent local think-tank IPOL (2009: 15):

It appears that there is a lack of a sense of the importance this mission has for Kosovo.... Another serious problem for EULEX is the evident lack of political support from Brussels. It is wondrous why EU showed no special interests in its largest civilian mission ever.

To summarise, the study of legitimisation process on performance through the case of EULEX reveals a divided local opinion that is crucial in understanding the complex and often problematic local-EU relations in Kosovo today, and the latter's overall authority in the conflict resolution process. The section demonstrates that the Kosovo public and civil society have become more convinced that EULEX's lack of action is actually a political decision to stabilise Kosovo's political scene without tackling with the 'real' problems, especially since 2010. The continuing duality in the legal system, the incompetence of the EULEX Customs in securing border crossings, and finally, EULEX's deficiencies and even the perceived reluctance to deal with the corrupt system in Kosovo have generated an

¹⁵⁵ Kosovo 2.0 Blog, 'Watching the North', <http://www.kosovotwopointzero.com/al>.

overall dissatisfaction with the mission among the public and the civil society organisations after the initial high expectations that the EU fed by setting clear objectives. Together with the lack of trust in the government and public officials in the fight against corruption and establishing the rule of law, the non-governmental local groups including the political opposition expect EULEX to make political decisions and to use its executive powers against the government, if necessary. While the government criticises EULEX for being intrusive into the government's authority and creating a duality as seen from the reactions to the EULEX investigations of the high-level corruption cases, non-governmental local groups expect EULEX to fulfil its objectives further.

Evidently, these demands cannot be easily accommodated with first, the EU's clear commitment to local ownership and promise not to become another UNMIK on the ground, and second, the traditional local suspicion and the negative attitude against an interventionist foreign institution inherited during the nine years spent as a protectorate. As seen from mounting challenges against EULEX, when the lack of performance is not only attributed to EULEX's lack of capabilities, but also its reluctance to risk short-term stability in Kosovo and its evasion from making political decisions to risk the political stability, the lack of support on performance grounds might trigger more foundational challenges against the mission's objectives and presence, from the disadvantaged local groups (non-governmental groups which are affected by the lack of the rule of law and widespread corruption) who put pressure on the EU to use its decision-making powers in order to re-shape the domestic balance in favour of them.

5.5.2 Institutional Relations and Visa Liberalisation

As discussed previously, the Commission opened Kosovo's path to EU integration by acknowledging its future candidate status in 2005 as a part of the EU's regional approach towards the Western Balkans. In principle, the integration of Kosovo into the EU has found widespread support from local authorities, as well as the public and civil society since such a process would generate sustainable development of Kosovo's economy and integrate Kosovo to the rest of the world. For instance, in terms of the expected outcomes and benefits, 75% of the Kosovo public think that EU integration would help strengthen democratic and economic institutions and fight against unemployment and corruption

(EUPK 2010)¹⁵⁶. In this sense, Kosovo's progress in the SAP is seen as directly related to Kosovo's integration into the EU¹⁵⁷.

In the view of local stakeholders, there are two reasons for the lack of satisfaction with the current outcome of EU integration process. First, the failure of the EU member states to provide a coherent response to Kosovo's independence has generated a chain of related events stumbling Kosovo's EU integration. Since an official recognition of Kosovo's statehood was denied by the EU due to five member states' rejections, Kosovo cannot establish official institutional ties with the EU. As a result, Kosovo has not yet signed the Stabilisation and Association Agreement (SAA), has not joined the club of 'no-visa required' countries in the region, and has not secured a preferential trade agreement which, in turn, hinders the development of Kosovo's democracy and economy (Brajshori 2011; Palokaj 2013).

In this sense, the Commission admits that establishing trade relations and concluding an SAA have been delayed due to complications of finding a legal status for bilateral agreements. The EU Liaison Office in Pristina stated that the absence of a common stance towards Kosovo's independence "does not prevent the EU to genuinely commit Kosovo's EU integration; but, it raises a serious problem to implement the commitments"¹⁵⁸. For instance, there are practical problems such as the 'issue of name' to sign a preferential trade agreement. The Kosovo government rejected to sign an agreement under the title 'Kosovo under the UNSCR 1244 and the member states did not reach a consensus on signing a bilateral trade agreement with 'the Republic of Kosovo' (Palokaj 2013: 12). From the local point of view, given the failure of the EU to find an alternative formula for bilateral relations after independence, 'the European Union without unity' failed to produce any new message to Kosovo except 'the old promises' of the Thessaloniki agenda since the declaration of independence¹⁵⁹. This situation has strengthened the local perception that the EU prioritises its interest in Kosovo's stability through the SAP, whilst association and final integration are not primary EU concerns.

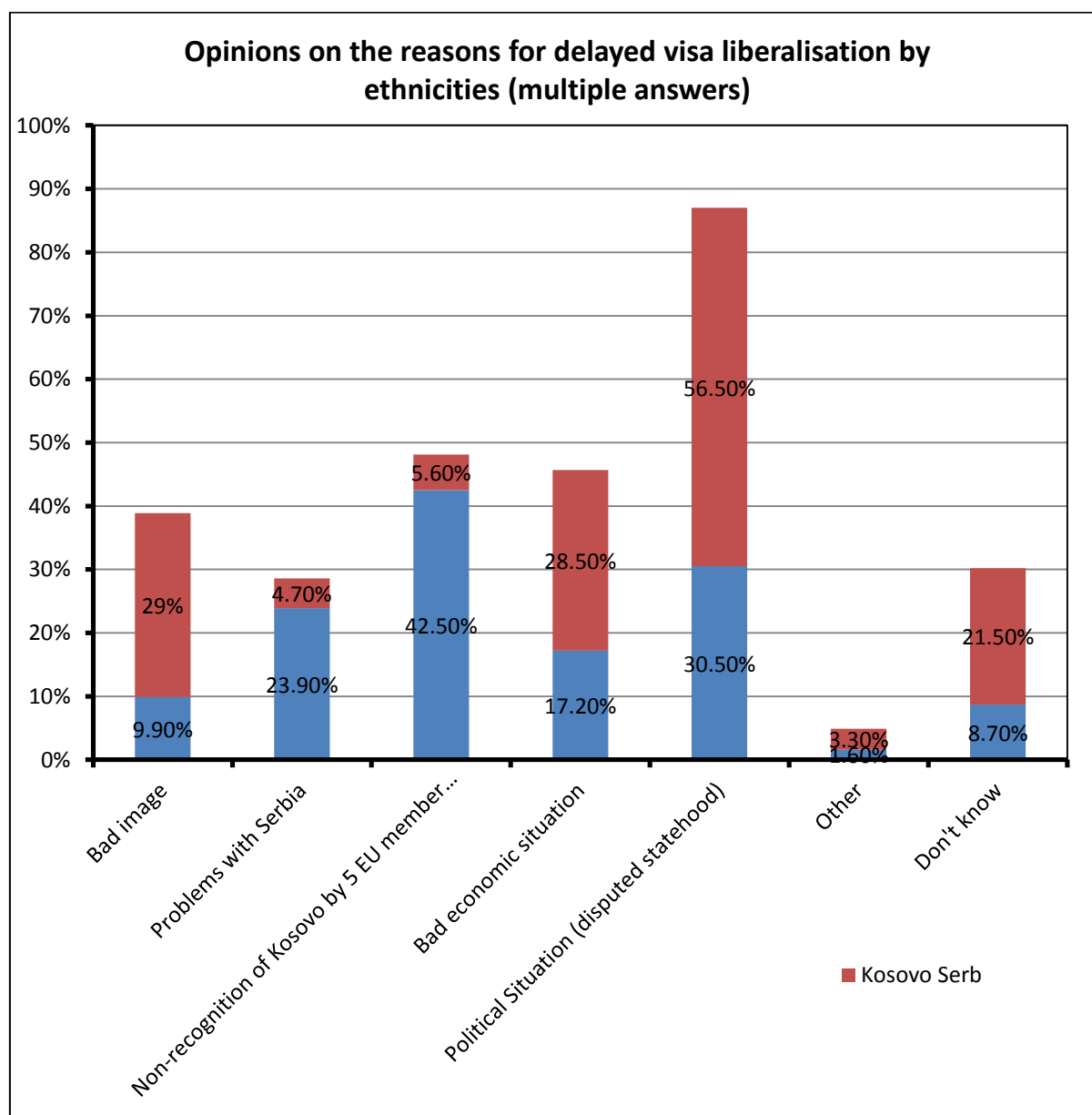
¹⁵⁶ However, looking at the various ethnic groups, it becomes clear that this EU 'euphoria' is confined to the Albanian part of the population: 95% of Kosovo Albanians supported EU integration, while only 9% of Kosovo Serbs were convinced that Kosovo should join the EU. GALLUP (2010). *Balkan Monitor Insights and Perceptions: Voices of the Balkans 2010 Summary of Findings*. European Fund for the Balkans. Brussels.

¹⁵⁷ Author's interview with, Fatmir Curri, May 2011, Priština/Prishtinë.

¹⁵⁸ EUCLO, Federica Domanini, May 2011, Priština/Prishtinë.

¹⁵⁹ Koha Ditore, 30.03.2008, 'The European Union without unity, with old promises'.

Public opinion reveals that the lack of uniformity among the EU member states towards Kosovo's independence is considered as the main reason for Kosovo's delayed contractual relations with the EU. To give an example, the majority of the Kosovo Albanians think that the reason for the delayed visa liberalisation agreement is due to the non-consensual recognition of Kosovo's independence by the EU member states and the ambiguous political situation, as seen from the following results of a 2011 survey¹⁶⁰.



Source: The data is taken from UNDP Public Pulse Survey I, (UNDP March 2011)

¹⁶⁰ It is also worth noting that for Kosovo Serbs the delay is due to the disputed statehood and bad image and economic conditions in Kosovo.

Second, since the promise of a European future for Kosovo is not linked to tangible integration steps, the Kosovo public usually feels disillusioned and abandoned by the EU, especially when they compare Kosovo's situation with the countries in the region¹⁶¹. Namely, Kosovo remains much behind the other countries in the region in terms of EU integration. This fact has created a perception that 'they are not treated seriously', and 'strict but fair' conditionality 'applies to others, not to them' (ESI 2009: 7). When Kosovars compare their situation, especially with the BiH, Albania and Serbia, which were granted SAA or visa liberalisation, the criticism turns into ethical and counter-normative arguments. For example, according to Muhamet Hajrullahu from BIRN, in Kosovo for so long, they are "forced to live within a ghetto in ghetto" due to the lack of recognition and statehood for years. If the EU would genuinely like to see a European future for Kosovo, it should first break the borders of this ghetto. In Hajrullahu's words:

The Western Balkans is trapped within conflicts for so long and it has been isolated by Europe treated as a ghetto. Now Kosovo is not granted visa liberalisation and turns out to be a ghetto within the region itself¹⁶².

Another example is the 'unfair' treatment to Kosovo compared to other countries in the region which have settled their border disputes. According to a widely cited example within the local political circles, the condition of regional cooperation is very difficult to meet for Kosovo, since Serbia refuses to establish relations with Kosovo, whilst Kosovo recognises Serbia as a state and desires to establish good neighbourly relations¹⁶³. The government has called for "a more serious commitment" from the EU to treat Kosovo as an "equal subject with other countries in the region" considering the 'unique' case of Kosovo's independence¹⁶⁴.

Recently, there is widespread perception that there is a loss of interest on the EU's side to establish institutional relations with Kosovo given the failure to find an alternative formula to solve the current conundrum stemming from the non-recognition by five EU member states and the strict conditionality on Kosovo. However, it is difficult to claim that the lack progress in integration has generated an immediate challenge and decrease in public support for future EU integration in Kosovo. Contrarily, the lack of Kosovo's

¹⁶¹ Author's interview, Muhamet Hajrullahu, op. cit.

¹⁶² Ibid.

¹⁶³ Author's interview with Artan Çollaku, Min. of European Integration, Priština/Prishtinë.

¹⁶⁴ Author's interview, Jeton Zulfaj, op. cit.

association with the EU through the SAP has led to an increased public expectation from the government and the EU to accelerate the integration efforts since 2008¹⁶⁵. Although the will to integrate Kosovo has been continuously expressed since 2005 by both the local authorities and the EU, for the Kosovo public, there is a lack of sincerity on both sides (Palokaj 2013). Especially, Kosovo civil society acknowledges if the EU offers tangible incentives within the SAP framework, it can further strengthen Kosovo's institutions and democracy. At the same time, the Kosovo government is seen as the main actor that has not achieved concrete progress in meeting the EU criteria for visa liberalisation, trade agreement and the SAA by the general public (UNDP March 2011). Therefore, in the public's view, the government also needs to commit further to meet the conditionality of membership¹⁶⁶.

Overall, the EU's 'member-state building in Kosovo' through the SAP and contractual relations has only met a few expectations of the public and the non-governmental groups so far. Local authorities, civil society and the majority of the public continue to support the idea or the objective of closer integration with the EU. However, tangible developments often remain far below what is expected. Recently, the Commission introduced a feasibility study for negotiations on the SAA and visa-liberalisation roadmap, which require Kosovo to make progress on a number of issues such as border and migration management, public administration, trade, fight against organised crime and corruption and fundamental rights¹⁶⁷. If the progress with the new impetus to the SAA and visa liberalisation process stagnates due to the EU's failure to find a legal ground for bilateral relations, local criticisms are likely to increase in the future (Brajshori 2012). More importantly, the EU conditionality might lose its credibility, since the Kosovo public already seems convinced that the EU does not have an agenda to resolve the internal problem of Kosovo's recognition and prefers prioritising its interest in stabilisation of Kosovo more than association. If conditionality loses its credibility, Kosovar politicians "will be unlikely to invest in reforms that are hard and costly" (ESI 2009: 7).

¹⁶⁵ Author's interview with Besa Luci, Kosovo 2.0, May 2011, Priština/Prishtinë.

¹⁶⁶ Author's interview with Fatmir Curri, op. cit.

¹⁶⁷ Press release, Commission delivers visa roadmap to Kosovo government, 14 June 2012, http://europa.eu/rapid/press-release_IP-12-605_en.htm and Balkan Insight, Kosovo Upbeat on Meeting Deadlines for SAA, 13 December 2012, <http://www.balkaninsight.com/en/article/kosovo-optimistic-on-saa-negotiations>.

5.6 Kosovo Serbs and Legitimation of the EU: an oxymoron?

Kosovo Serbs constitute the most important minority community of Kosovo for many reasons. Besides being the biggest minority group, Kosovo Serbs have found themselves in a completely transformed political, social and economic environment after Kosovo's *de facto* secession from Serbia in 1999. Once granted disproportionate socio-economic privileges during the Milosevic era, they are isolated socially, economically and politically in a dominantly Albanian Kosovo and been subject to frequent physical assaults and attacks since 1999 (King and Mason 2006).

Kosovo Serbs never constituted the majority in Kosovo; but after the NATO action, the number of Serbs in Kosovo has considerably decreased since they chose to (or were forced to due to revenge violence) flee to Serbia. While the economic and social conditions of the remaining Serb population in Kosovo (4% to 5% according to the estimates of 2011 census¹⁶⁸) have slightly improved since the early years of the international administration, their perception of the conflict, the EU and Kosovo has considerably evolved due to the changing contextual factors. At least, since independence, they are forced to live under Priština/Prishtinë's authority, cooperate with the EU on the ground and adapt to Belgrade's changing policy towards Kosovo. The declaration of independence has clinched the *de facto* partition of Kosovo along ethnic and even territorial lines between Serb populated north and the Albanian dominated Kosovo proper in the south. With the declaration of independence, Kosovo Serbs were also driven into a state of crisis about their future, statehood, physical and socio-economic security¹⁶⁹.

This section analyses the legitimation process of the EU's conflict resolution from the Kosovo Serb point of view by studying the (lack of) support and its reasons by looking at two cases that directly concern Kosovo Serbs: relations with EULEX/EU and territorial-administrative decentralisation. For Kosovo Serbs, foreign presence in Kosovo has always represented the forceful division of their country by 'the internationals'. Moreover, their security concerns (not only physical but economic and social), political demands and normative/ethical arguments affect their relations with the EU. Hence, the legitimation process of the EU's authority as the main conflict resolver in Kosovo cannot be understood without examining the Kosovo Serb support, attitudes, perceptions and challenges.

¹⁶⁸ It is difficult to give an exact number of Kosovo Serbs since the 2011 census could not be carried out in North Kosovo due to the boycott where the majority of Kosovo Serbs live. <http://esk.rks-gov.net/rekos2011/?cid=2.1/>

¹⁶⁹ Author's interviews, Gračanica/Graçanicë, May 2011.

5.6.1 Kosovo Serbs and EULEX/EU

Regarding the process of legitimation through norms and principles, Kosovo Serb perception of humanitarian reasons behind Kosovo's secession from Serbia still shapes their relations with the EU and the support for the conflict resolution process. The Kosovo Serb view of the international; and thereby, the EU involvement has been built upon a diametrically opposed understanding compared to the Kosovo Albanian perception. For the Serbs of Kosovo, the Western community's humanitarian values were only designed for Albanians and failed when it comes to assume a responsibility to protect them. A perception of partial implementation of humanitarian principles shape Kosovo Serbs' support for the conflict resolution process and the conflict resolvers in general. The international community failed to protect Kosovo Serbs from revenge attacks in contradiction with the principles they claimed to promote in Kosovo. In the aftermath of NATO bombings, 'the hunting for Kosovo Serbs' continued for months. Sasa Ilić stated that "these were the days when open calls for killing of Serbs were issued and when finding shelter and food in Priština/Prishtinë became impossible" while the international community (UNMIK and KFOR) failed to offer protection to the civilians¹⁷⁰.

Given this initial experience with the foreign presence in Kosovo, usually, 'anything that comes from internationals' is seen as a move to favour the government in Priština/Prishtinë and faces civil disobedience and resistance from Kosovo Serbs. In this sense, looking at the process of legitimation through local ideas from the Kosovo Serb perspective, the general support for the EU integration remains far below the Kosovo Albanian support. Although Kosovo Serbs also see corruption, the political and economic situation, and crime as the biggest problems of Kosovo, the majority of them has a negative attitude towards Kosovo's EU integration mostly due to a disbelief in any benefit of EU accession for improving Kosovo Serbs' situation (KFOS 2012). Also, as discussed in the example of supra-ethnic identity generation (section 5.3), Kosovo Serbs did not show a willingness to integrate into the independent Kosovo whose future is declared to be in the EU, as a reaction to Kosovo Albanian monopolisation of the new state and identity.

Moreover, Kosovo Serbs continue to challenge the EU's normative agenda in the post-independence period as one-sided and unfairly favouring a majoritarian understanding. For instance, Kosovo Serbs interpreted the reconfiguration of EULEX as a continuation of the hypocritical attitude of 'the international community' to 'bribe' Kosovo

¹⁷⁰ Author's interview with Saša Ilić, May 2011, Gračanica/Graçanicë.

Serbs in order to earn their consent. Since the EULEX was initially drawn up by the Ahtisaari Plan (which was an unacceptable document in favour of Kosovo's independence, from the Kosovo Serb point of view), the majority of Serbs remains convinced that the EU's 'seemingly benevolent objective' actually disguises the 'imposed' independence of Kosovo. As a result, despite the consent of Serbia for EULEX to deploy in Kosovo (thanks to the Six-point Plan), before EULEX's deployment, Kosovo Serbs organised their own demonstrations under the mottos 'stop EULEX' and the 'stop the invading mission'¹⁷¹. Protests continued in the following months, especially in the north where Kosovo borders Serbia with hand grenade attacks on EULEX offices¹⁷².

Looking at legitimisation on participatory qualities, the EU has so far shown only very limited progress in establishing direct relations with the Kosovo Serb community to improve their general awareness about the EU objectives in Kosovo and to curb the traditional prejudices. To give a few examples, it is very challenging for Kosovo Serbs to reach information about the EU activities and the EU-brokered negotiations between Kosovo and Serbia. Since the media in Kosovo mostly targets Albanians, Kosovo Serbs still follow Belgrade based media. The information they receive is usually biased towards the EU's role in the conflict resolution process¹⁷³. Due to the absence of direct relations and the lack of information on the EU's multi-faceted involvement in Kosovo, the Serb community remains sceptical towards the EU in playing a key role to solve their economic, political and social problems.

Moreover, especially since the start of direct negotiations in 2011 under the EU mediation, Kosovo Serbs feel even more alone and without a direct voice representing them. The Kosovo Serb community is not directly represented in the talks between Kosovo and Serbia. The SLS leader Petrovic stated that despite the fact that Kosovo Serb representatives expressed their will to become a part of the talks, the EU preferred to keep the negotiations strictly between Kosovo and Serbia¹⁷⁴. The reasons are multiple. Foremost, the Kosovo government, the EU and even Serbia did not consider giving direct voice to Kosovo Serbs at the negotiation table in order not to complicate the already complex equation further. Also, the EU knows that it has considerable leverage on the governments in Pristina and Belgrade, both of which have long-lasting aspirations of being members of the Union. Finally, the EU avoids implicitly supporting the marginal and

¹⁷¹ Kosovo Sot, 01.10.2008, "Serbs to protest tomorrow against EULEX"

¹⁷² Koha Ditore, 28.04.2009 and Zeri, 06.05.2009.

¹⁷³ Ibid.

¹⁷⁴ Interview with Slobodan Petrovic, February 2012, available at www.sls-ks.org.

secessionist elements within the Kosovo Serb community by accepting them as another party on the negotiation table. As a result, the EU assumes that Kosovo Serbs are represented enough by Belgrade and Pristina.

However, when asked about how much they feel represented by Pristina or Belgrade, Kosovo Serbs think that both Pristina and Belgrade have political motives to take the demands and expectations of Kosovo Serbs into account¹⁷⁵. Especially since Serbia is now granted a candidate status by the EU, the majority of Kosovo Serbs believe that Belgrade would soon turn its back to them (Lazarevic 2011). Under the new circumstances, it is important for the EU to generate closer and direct relations with Kosovo Serbs and listen to their autonomous demands and expectations that are not represented by Belgrade or Pristina in order to generate support through local participation and accountability/transparency.

Regarding the legitimation through performance, the confusion surrounding the constitutional order and applicable law in Kosovo has increased the sense of insecurity among the Kosovo Serb population. For Kosovo Serbs, the replacement of the UNMIK authority with EULEX only meant the “start of another status quo” imposed against their will¹⁷⁶. In an interview for *Zëri*, the former Serbian Returns and Communities Minister Slavisa Petkovic questioned the duality of the constitutional orders when the Kosovo constitution came into force:

As a citizen when I wake up June 16th, which law will I respect and who is going to be the supreme authority in Kosovo? If after June 15th [the date when Kosovo Constitution entered into force after 120 days of transition foreseen by Ahtisaari Plan], the international representative, be it Rücker [Special Representative of the Secretary General], Feith [Special Representative of the EU] or someone else, will still have the right to intervene on various issues, then what is the point of the Constitution¹⁷⁷.

Even after four years of ground presence, Kosovo Serbs’ compliance and cooperation with EULEX staff remain limited. Moreover, the assessment of local and central authorities, Kosovo security forces and judiciary -which are closely monitored and mentored by

¹⁷⁵ Author’s interview with Saša Ilić, op. cit.

¹⁷⁶ Zëri, Feith, 06.06.2008, ‘Ferati and Trajkovic discuss decentralisation’.

¹⁷⁷ Zëri, 03.06.2008

EULEX- remains negative among the Serb community’ (KFOS 2012: 17; UNDP 2012). EULEX has not established a continuous authority in the Serb dominant areas. According to Saša Ilić “the overall perception of EULEX remains very negative among Kosovo Serbs, especially in north Mitrovicë/Mitrovica, there are only a couple of them based in the city and they know they are not welcome there. Kosovo Serbs and Serbian institutions reject any communication with them”¹⁷⁸.

Overall, Kosovo Serbs’ negative attitude is mostly due to their widespread scepticism towards the foreign presence in Kosovo which Kosovo Serbs see as the main factor for the division of Serbia. The EU could not overcome the traditional scepticism of Kosovo Serbs through direct and open communication with the Kosovo Serb community and practical improvements in their daily conditions. The lack of willingness on the side of the EU to consider Kosovo Serbs as a separate community and directly engage with their demands has so far limited the EU’s and EULEX’s influence on Kosovo Serbs. As a result, Kosovo Serb support for both EU integration idea and EULEX remains far below the support given by the Kosovo Albanian community.

5.6.2 Kosovo Serbs and Decentralisation

Decentralisation is the most powerful policy of the EU addressing Kosovo Serbs directly. There is a high visibility of the process among Kosovo Serbs¹⁷⁹. Yet, Kosovo Serbs remain divided between Kosovo Serbs who live in the enclaves and Kosovo Serbs who live in the north of Kosovo (see the ethnic map of Kosovo for Serb populated areas). While Kosovo Serbs in the southern enclaves show signs of cooperation and support mostly on pragmatic grounds (without diffuse support), Kosovo Serbs of northern municipalities reject cooperation with the local and central authorities and the EU regarding the implementation of the decentralisation project.

First, Kosovo Serbs of the enclaves in the south perceive decentralisation fundamental to improve their bad living conditions by providing them with the freedom of movement and access to public services¹⁸⁰. In the words of the leader of the Independent Liberal Party (SLS) Slobodan Petrovic, ‘cooperation [with the new municipalities created

¹⁷⁸ Author’s interview with Saša Ilić, op. cit.

¹⁷⁹ Author’s interview with the ICO decentralisation unit, May 2011.

¹⁸⁰ Author’s interview with, ICO, May, 2011, Decentralisation Unit, Priština/Prishtinë.

under decentralisation project] is the only way to survive [for Serbs] in Kosovo'¹⁸¹. As a result, in the southern enclaves, Kosovo Serbs started to show signs of pragmatic support for decentralisation. For instance, lately they started to apply for Kosovo documents and participate in the works of the Municipal Preparation Teams for pragmatic reasons (Tahiri 2009; Tahiri 2010). This cooperation has intensified when Belgrade was lately granted the EU candidationship status.

However, the Kosovo Serb participation in decentralisation is related to economic concerns such as the prospect of getting a job and improving the basic infrastructure. Because Kosovo Serbs expect that Serbia would no longer be willing or in a position to sustain the parallel structures (Belgrade financed education, health and public administration bodies), they see decentralisation as a means guaranteeing them as much autonomy as possible, and even a pseudo-independence as a part of independent Kosovo (Dugolli, Çollaku et al. 2007: 5). Moreover, decentralisation municipalities have achieved considerable improvements in infrastructure for the betterment of the daily life of Kosovo Serbs such as medical centres, roads, sewage and water supply systems¹⁸².

However, pragmatic cooperation in some enclaves cannot be interpreted as diffuse support for decentralisation since it would mean acceptance of Kosovo's independence. Political and normative reasons still prevent the majority of Kosovo Serbs from supporting the decentralisation policy for moral or political reasons. Put simply, Kosovo Serbs do not consider decentralisation as a remedy for Kosovo's forced secession that is imposed on them. According to the majority of Kosovo Serbs, there are certain things that Kosovo Serbs cannot expect from decentralisation. In the words of Ilić:

The EU pretends they do a favour to Serbians but actually 'it is not a multi ethnic society. Ahtisaari plan didn't give Serbs what they hadn't had previously. We had it before. It was taken by force [i.e. NATO intervention] now it is given back with small spoons'¹⁸³.

Although Kosovo Serbs have recently demonstrated some form of cooperation in the new Serb municipalities after independence, the level participation of Kosovo Serbs in the 2009 local elections shows the Kosovo Serb reluctance to support the novel municipalities. The

¹⁸¹ Interview with Slobodan Petrovic, February 2012, available at www.sls-ks.org

¹⁸² Author's interview, ICO, op. cit.

¹⁸³ Author's interview with Saša Ilić, op cit.

voting turnover in the major Kosovo Serb municipalities was very low at around 8% in Novo Brdo/Novobërdë, 22% in Gračanica/Gračanicë, 12% Ranillug and 17% in Klokot/Kllkot¹⁸⁴. Moreover as Lazarevic (2009) discusses, “for many Serbs, the participation in this poll was not interpreted as the result of a successful electoral campaign or the promotion of the decentralisation, but the consequence of lacking clear support and strategy from Belgrade for the future of Serbs in the south”.

Therefore, one can claim that decentralisation has only generated limited support from some groups of Kosovo Serbs and only due to pragmatic reasons. It still faces a highly politicised local opinion. For Kosovo Serbs, accepting decentralisation as offered in the Ahtisaari Plan means accepting the Plan itself, ergo accepting an independent Kosovo. Ilić's remarks summarises the general public perception among Kosovo Serbs:

They are here for three years now but not doing anything other than spending money. Their offices do not work. ‘What International Civilian Office is doing here. Integration of Serbs into what? Which institutions? They started working here before independence. They’ve been supporting one side without getting consent of the other side. Then they come up with decentralisation plan offering Serbs their local governance. Step by step it [independence] is becoming a reality¹⁸⁵.

In practice, this dilemma of Kosovo Serbs, such as support of decentralisation for pragmatic reasons on the one hand, and total rejection due to the political implications of cooperating with Kosovo municipalities on the other, has generated a unique case of cooperation between the decentralised municipalities and parallel municipalities under Belgrade's authority. Kosovo Serbs neither totally challenge nor embrace the decentralisation process, but they ‘tailor’ it in order to improve the political and daily conditions. In terms of providing social and economic security, the newly established

¹⁸⁴ Generally, the EU and OSCE only consider the total voter turnout in new Serb municipalities including Kosovo Albanians and reach quick conclusions that Kosovo Serb participation in some municipalities has reached almost the level of Albanian municipalities to declare success of decentralisation OSCE (2011) "Municipal Profiles." available at: www.osce.org/kosovo/43753. If we look at the general voter turnout, the figures would give a wrong impression that Serbs participated in the voting not less than dominantly Albanian municipalities. However, total figures mostly represent the Albanian participation. Here, the percentages reflect only Kosovo Serb voters not the total voter turnout which include the Kosovo Albanian voters. The percentages are calculated by the author assuming that the percentage of Serbian party votes in each municipality is casted by only Serbs (i.e. it is assumed that not a single Albanian voted for a Serb party). The percentage of Serbian Party votes are taken from Tahiri, B. (2010). Decentralisation and Local Governance Reform: Clear on Paper blurred in practice The Case of Kosovo. Kosovo Local Government Institute. Pristina.

¹⁸⁵ Ibid.

municipalities are sometimes not effective to deal with the daily concerns of Kosovo Serbs as stated by Vlara Trajkovic from the ICO decentralisation unit¹⁸⁶. Whenever municipalities under Pristina's authority fail to address their basic demands, Kosovo Serbs turn to parallel structures and vice versa. As a result, they have developed porous informal links between the two separate and –in principle- contesting local administrations. Decentralised municipalities and parallel municipalities financed by Belgrade chose to cooperate for municipal projects. To give a few example, the head of Serbian municipality Novo Brdo/Novobërdë run by Belgrade is also a member of the municipality assembly run by Priština/Prishtinë (ICG 2012), the Klllokot/Klokot municipality continuously cooperates with the Belgrade-supported Viti/Vitina municipality, although Klllokot/Klokot does not have a direct contact with Belgrade (HCHR 2012). There are also examples of direct relations: the local communities committee of Peja/Peć municipality cooperates with the administration of a parallel municipality run by Belgrade, and in Shtërpce/Štrpce, the assembly of “the “Serbian” municipality is convened in the same hall as that of the “Kosovo” municipality” (HCHR 2012: 50). There are many other examples of similar cooperation between Kosovo and Serbia municipalities. As the examples show Kosovo Serbs in the south see the parallel Serbian municipalities as complementing the performance of the decentralised municipalities.

Kosovo government continuously oppose this cooperation and reject the feasibility of it. The current Deputy Prime Minister Edita Tahiri stated that there was a battle between the new municipalities and parallel Serb municipalities regarding service delivery (Tahiri 2010). However, this peculiar type of informal institutionalisation and hybrid governance has become the most normalised way of local governance accepted by Kosovo Serbs, although the EU, Priština/Prishtinë and Belgrade constantly claim that the two systems are incompatible. There is a possibility that ending parallel institutions might be more harmful and cause a number of Serbs emigrating to Serbia rather than stabilising and improving the Kosovo Serb situation.

On the other hand, Kosovo Serbs in the northern municipalities react to the process of decentralisation very different. The geographical proximity to Serbia has maintained their close political, economic and daily contact with Belgrade. As a result, the decentralisation process through the creation of new Serb municipalities had to be suspended in Mitrovicë/Mitrovica and Parteš/Partesh due to the Kosovo Serb rejection to

¹⁸⁶ Author's interview, May 2011, ICO op. cit.

participate in 2009 local elections¹⁸⁷. In Leposavić/Leposaviq, Zubin Potok and Zvečan/Zveçan, the Kosovo government did not even attempt to introduce ballot-casting since participation was expected to be null near Serbia (see the ‘map of municipalities’). Due to the absence of information about these regions by Priština/Prishtinë, the Ministry of Local Government Administration could not incorporate these municipalities in the local governance monitoring report (MLGA January-June 2010; MLGA July-September 2010).

Given the lack of support for decentralisation from Kosovo Serbs in the north, the EU aims at a step-by-step long-term integration of the northern region into Pristina’s authority instead of a major step imposing control. In this process, the EU rejects dealing with Kosovo Serbs directly and have pressurised Belgrade to encourage cooperation from Kosovo Serbs. So far, the EU has taken two steps in order to realise this long-term goal: supporting moderate Kosovo Serb leaders and using leverage on Serbia to co-opt radical local leaders in the north. The EU has only achieved to open an ‘EU house’ in the north of Mitrovicë/Mitrovica as an extension of the Commission’s Liaison Office and appointed an ‘EU facilitator for the North’ in March 2010. However, so far, the House is engaged in the coordination of building infrastructure and increasing visibility of the EU among the residents¹⁸⁸. The new facilitator was advised to assist the activities of parallel North Mitrovicë/Mitrovica municipality in order to normalise Kosovo Serbs’ relations with the EU (Deda and Kursani 2012).

With no sign of support from Kosovo Serbs in the north, the EU is compelled to develop a clear strategy to ensure the implementation of decentralisation or an alternative policy to integrate Kosovo Serbs. The EU needs a tangible policy especially towards the north where Kosovo Serbs are intensely politicised¹⁸⁹ and civil disobedience and resistance have sometimes turned into open clashes with KFOR and EULEX (Lazarevic 2011c). Contrary to the common assumption held by the EU and other international actors, Kosovo Serbs are not completely submissive to the decisions of Belgrade. Especially as Serbia has been recently tightening relations with the EU, Kosovo Serbs are driven into more isolation and only marginalises the biggest minority community in Kosovo (Lazarevic 2011a; Lazarevic 2011b).

¹⁸⁷ Additional elections were held in June 2010 in Parteš/Partesh to elect local municipal council.

¹⁸⁸ EU House Factsheet, <http://www.eulex-kosovo.eu/docs/info/EU-House-Factsheet-ENG.pdf>

¹⁸⁹ In June 2008, Serb municipalities in Kosovo formed an ‘Assembly of the Union of Municipalities of the Autonomous Province of Kosovo and Metohija’ which rejects Priština/Prishtinë’s declaration of independence. The unofficial Kosovo Serb assembly meets in Mitrovicë/Mitrovica since June 2008. Again in February 2012, Kosovo Serbs in the north organised an independent referendum voting against ‘the institutions of the so-called Republic of Kosovo’.

To sum up, looking at the legitimization process from Kosovo Serb point of view, local support for the EU remains very limited to the Serbs of the southern enclaves thanks to the specific support for the decentralisation policy. However, since the EU has assumed the main responsibility of conflict resolution process since 2008, Kosovo Serbs' general perception of foreign presence and conflict resolution has not visibly improved. Especially, EULEX could not prevent further territorial and ethnic divisions in Kosovo. In short, Kosovo Serb support for the EU framework (norms and values) and policies remain limited. Continuous civil disobedience, rather than cooperation and compliance, shapes Kosovo Serb attitude and resistance against the EU and conflict resolution.

5.7 Analysis: Legitimation and Authority of the EU in the Kosovo Conflict Resolution

Chapters Four and Five have analysed the legitimization process of the EU in Kosovo as an ideational/normative framework and as a policy-making actor. The goal of Part II is to discuss in detail how local diffuse and specific support is generated for the EU. In doing this, Chapter Four has assessed various claims, self-justifications and policies of the EU's overall conflict resolution engagement in Kosovo. Chapter Five has addressed local perceptions, expectations and support for the EU along the four dimensional model.

In relation to legitimization through norms and principles, this chapter has demonstrated that the EU's framework has gained widespread local support thanks to the consistent and comprehensive promotion of democracy, the rule of law, the eventual integration of Kosovo into the EU, and local ownership. The normative and ideational backbone of the EU's conflict resolution agenda faces no hurdles in terms of getting broad-based diffuse support from various local groups. In this sense, the EU utilises the local ownership principle to address the existing concerns of local groups. Relying on the flexibility and the ambiguity of the local ownership principle, the EU established a consistent normative framework and nominated itself for more responsibility in Kosovo especially during the Vienna negotiations. In the post-2008 period, the EU has continued to utilise the local ownership principle both as a procedural quality to be sought during its engagement and as an end result that would be the outcome of the EU's engagement. In this sense, first, local ownership is employed vis-à-vis the local groups as a moral justification for even the EU's extensive executive responsibilities. In this sense, local ownership is promoted as a procedural quality and the EU claims to *foster* it by mentoring

and advising and sometimes executing on behalf of the local authorities. For the EU, throughout the process, local authorities and other stakeholders learn burden-sharing.

Local ownership principle is also utilised by the EU as a justification for the unwanted outcomes. In this sense, the EU promotes local ownership principle as an end result and claims to *respect* it without intervention. In this case, local ownership means a genuine local will and capacity to generate an environment conducive to peaceful co-existence. In this case, local ownership means that the local stakeholders have to inevitably bear responsibility of the process of conflict resolution. Namely, the locals have to enjoy the successes and suffer from the failures as the ultimate owners of the conflict resolution. Hence, local ownership as an outcome has justified the unintended consequences of EU actions.

The flexibility of the local ownership principle has also been used in order to respond to the criticisms of inconsistencies between the main policy tools and the rhetoric by the EU. For instance, the membership prospect and conditionality is supported only in reference to bilateral hands-off approach where progress towards integration is left to the local authorities. In this sense, the EU's approach can be summarised as take it to achieve sustainable conflict resolution and membership into the EU as a payoff at the end of the process or leave it and eternally live at the bay of Europe.

Overall, the EU has consolidated a set of arguments based on humanitarian principles, internationally accepted practices, and local ownership in state-building and long-term integration. It has generated a consistent justificatory framework through norms and principles. As a result, the EU has not only ensured loyalty to international practice of conflict resolution, but also gained the accolade of a trusted external party by all local groups, especially at the beginning of its extended role in conflict resolution after 2008. The EU's broad normative framework has generated diffuse support from all local groups (local political elites, civil society and the public).

The chapter has also discussed that the maintenance of support on a normative ground depends on how the EU's ideational and policy framework is received on the ground. The analysis of the legitimation through local ideas is determined by the complex relationships between the EU and different local actors assessing, interpreting, adapting and/or localising the normative framework of the EU. The Kosovo case has demonstrated that popular and collective acceptance of the EU as a framework of ideas and norms is not determined solely by what the EU proclaims as self-justification based on the overarching principles, but is constantly evolving within the dynamic domestic environment, values,

priorities and ideologies. The chapter has discussed that how the EU-inspired process of generating ethnic reconciliation through a supra-ethnic (read Europeanised) identity has aggravated exclusivist definitions (Kosovar=Kosovo Albanian in practice). In principle Kosovo Albanians accept the European framework due to the impossibility to keep overt Albanian nationalism in Kosovo (or even the more unthinkable option of merging with Albania). In practice, they have redefined the Kosovar identity as dominantly 'Kosovar Albanian' who suffered in the past and now deserves a place in Europe. The Kosovo case has illustrated that the local support is usually conditional upon the extent to which the EU's policies reassure the local ideology that can easily contradict with the EU's vision of conflict resolution and ethnic reconciliation.

The analysis of legitimation through procedural/participatory qualities of the EU as a policy actor has demonstrated that the EU institutions on the ground cannot escape from local criticism on accountability and transparency criteria. Despite the fact that EULEX aims to bolster co-ownership and burden sharing, deliberation and consultation is limited to a handful of government institutions. Mentoring, monitoring and advising activities often intervene in both the legislative and executive institutions of Kosovo, and they create accountability and transparency gap for EULEX. Moreover, the lack of initial cooperation and consultation with local authorities at the deployment stage has constrained the general support from the majority of the local stakeholders. Overall, local specific support for the EU mission on participatory/procedural grounds remains contested especially by the groups of local stakeholders that are not a part of the government in Kosovo.

Finally, the chapter has showed that the EU's legitimation is closely linked to the timely and efficient delivery of outcomes. The chapter has discussed that local expectations are decisive to generate legitimation on performance ground. In Kosovo, high expectations of local stakeholders especially, non-governmental actors and the public have created further pressure on the EU to generate tangible outcomes. Reasons for high expectations from locals are two-fold: first, given the unified local stance against the lack of economic and political development after nine years spent under the UNMIK rule, the public expected tangible improvements in daily life in the post-independence period. Ordinary Kosovars demand that the EULEX should play the role of the executive, policy and judiciary in lieu of local authorities who are either incapable or unwilling to fulfil their responsibilities. Second, the EU declared that it was firmly committed to improve the rule of law, democratic institutions and generate economic development in Kosovo. Against this background, the local stakeholders started to see the EU as the main actor that is

responsible for Kosovo's economic progress and democratisation. Particularly, widespread corruption and organised crime among the political elites has become the main reason for the public expectations. Nevertheless, the EU continuously emphasises that its aim is to take a back seat and encourage local-capacity development (local ownership as a process). As EULEX stresses more and more its technical nature, discontent of the public and civil society has become widespread. Today, the widespread criticism against EULEX by non-governmental groups targets the very *raison d'être* of the mission that EULEX indirectly supports criminal structures and empowers the clientalist political elite in Kosovo for the sake of the short-term stability in Kosovo.

Kosovo case has also demonstrated that when the EU fails to provide effective results, dissatisfaction does not only result from the perceived incapability of the mission, but from more foundational challenges towards the EU's authority. Together with the lack of transparent and accountable procedures of EULEX, the mission's reputation and authority remains damaged as a self-serving foreign actor issuing empty promises and supporting clientalist politicians in Kosovo for the sake of stability. These findings suggest that sustained performance failure is likely to turn the local reactions into more substantial challenges and degrade the overall authority of EULEX to maintain cooperation from local groups.

While the majority of the Albanians' support for the EU framework or specific policies is shaped very much by the dominant ideology of independence and sovereignty, Kosovo Serb support for the EU and EULEX is increasingly becoming complex, but, at the same time crucial for the EU's future authority in Kosovo. The declaration of independence has clinched the political, economic and social partition of Kosovo along ethnic and territorial lines between the Serb populated north and the Albanian dominated south. Today, there are wide differences between the Serbs in the south enclaves and the Serbs living in the northern municipalities. The long-term challenge for the sustainability the EU's authority is to acknowledge Kosovo Serbs' presence separate from Belgrade and deal with their demands directly.

Given these insights from the Kosovo case, the legitimization process demonstrates that local dynamics play a decisive role in enabling or preventing the EU to implement its conflict resolution agenda. Adaptation or resistance to the EU normative framework proves that locals have "differentiated ability to reconstruct norms to ensure better fit with prior local norms" (Acharya 2004: 239). Each group (political elites, civil society, media, minority Kosovo Serb and Kosovo Albanian public) has its own agenda and power to

affect the conflict resolution process by adopting or challenging the EU's normative framework and by offering and withdrawing support for specific EU actors and policies on the ground. Challenges of the ruling elite are usually indirect in the form of delayed compliance or using their cooperation to strengthen reputation or political power. However, it is not only local political elites that resist or tailor the EU agenda for political gains but also the local civil society organisations which are considered peace entrepreneurs in post-conflict settings that often openly challenge the EU representations on the ground and call for resistance and disobedience. Today, maintaining or re-establishing the 'societal power' of legitimate authority in Kosovo has become a difficult task for EULEX.

These findings suggest that there are various implications of Kosovo case for EU conflict resolution. First, the EU's legitimation as an actor and policy-maker on the ground is directly related to the EU's authority, absence of which would result in serious entropy for the EU's different institutions in Kosovo that is costly for the EU not only financially but also in terms of maintaining support from EU citizens for the ongoing conflict resolution engagements. The EU seeks to justify its engagement in Kosovo as to transform the conflict between Kosovo and Serbia/Serb minority in Kosovo in order to ensure stability in its close neighbourhood. As the local challenges hinder or delay a final settlement of the conflict in accordance with the EU criteria, it would be more difficult to justify the continuing engagement vis-à-vis the EU citizens who do not see a progress in democratic state building, ethnic reconciliation and stability in Kosovo.

Second, local support for the EU has an indirect impact on the global role that the EU claims in terms of contributing into peace and stability worldwide, redefinition of international principles of sovereignty and non-intervention. Support for the EU in Kosovo is also likely to have an effect for the future of international response towards ethnic conflicts, sovereignty and self-determination claims. The way in which the EU upgrades or questions the value and validity of these traditional principles in Kosovo is important since the discretionary and selective application of some principles and values can tarnish the EU's credibility internationally¹⁹⁰. Moreover, the EU has a claim that by offering enlargement it has a real value through conditionality in resolving conflicts. It is also important to generate manageable and credible enlargement policy towards Kosovo in

¹⁹⁰ The on-going secessionist movements in the Caucasus, whether the EU likes it or not, have already drawn parallels between their self-determination claims and international community's acceptance of Kosovo's long journey to supervised independence first under UNMIK and now under the EU.

order to maintain this reputation. Hence, establishing locally-sourced support is central to the EU's success in Kosovo as well as its broader role as an international conflict resolver within the international community.

Part III

Chapter Six – Analysis of EU Policies and Justifications in North Cyprus

In line with the analytical framework, this chapter aims at investigating in detail the self-justifications, norms and principles that shape the EU's approach to Cyprus conflict and policies of conflict resolution. Recalling the analytical framework, the process of legitimisation is two-sided: the EU and local templates have a dynamic relationship that is constantly reshaped by discursive/ideological justifications, norms and counter-norms, actions and reactions. The relationship between the EU self-justifications and local values, perceptions and ideologies shape the legitimisation process, and ergo the authority of the EU in conflict resolution.

The assessment of the 'EU template' in Cyprus has three purposes: (i) to identify the links between the EU's normative framework and policy tools (ii) to assess the discursive and policy shifts through the changing nature of the EU's involvement in conflict resolution in Cyprus (iii) to better understand the reasons and the ways in which the local stakeholders provide or withdraw support for the EU framework and policies as dealt with in the next chapter.

The first section assesses EU self-justifications by looking into normative, principle-driven explanations in the EU discourse during the pre- and post-accession years. The second section looks into the tangible policy tools of the EU addressing the local actors in (North) Cyprus with an aim to transform the conflict and encourage reunification in accordance with the UN parameters (i.e. the internationally accepted solution on the island in principle, which is based on reunification under a bi-communal and bi-zonal federation).

6.1 The EU as a Framework: Role Model and Justifications

In the long course of the Cyprus¹⁹¹ conflict, the EU's involvement as a third party conflict resolver is relatively recent. Contrary to Kosovo, the EU did not nominate itself for the role but was dragged into the conflict resolution process when the Greek Cypriot

¹⁹¹ North Cyprus or the Turkish Republic of Northern Cyprus (TRNC) refers to the unrecognised Turkish Cypriot state, while the Greek Cypriot government or the Republic of Cyprus (RoC) refers to the only recognised state on the island which has lost the control of the north in 1974.

government, as the only internationally recognised authority on the island, applied for EU membership in 1990. The EU's involvement in conflict resolution is short but tremendously intense.

Similar to Kosovo, the Union has built its self-justificatory claims upon moral arguments and accepted international practice in relation to the unrecognised North Cyprus. The conflict offers a unique case to analyse EU efforts to generate normative/ideological justifications as a framework because in the beginning of its involvement, the EU faced a moral dilemma in Cyprus. The dilemma was related to whether to respond to the calls to become a catalyser in the peace process as claimed by some voices inside the EU and perform moral duty to reunite the island or to leave conflict resolution to the UN and avoid getting involved in an extremely polarised minefield until a mutual solution is found. There were many alternative voices in the early 1990s claiming that the EU should remain neutral since the conflict involved not only Turkish and Greek Cypriots, but also one member state (Greece) and a potential candidate and a long associate country (Turkey). In the end, the EU chose to take part in the international conflict resolution efforts through using the leverage of the accession process, while declaring loyalty to the UN peace process and neutrality to both parties.

This section analyses which arguments the EU established its decision to play an active role shaping the conflict resolution process and how the EU utilises the internationally accepted practice towards North Cyprus's unrecognised government and its own example as a reconciliation role-model when constructing its normative objectives and justifications. The discussion addresses the EU's overall engagement with the conflict on the island. However, the main focus of this chapter is the EU's relations with the Turkish Cypriot community.

6.1.1 Pre-Accession: International Principles and the Commission's Normative Stance

The EU has always opposed the 1974 Turkish invasion and the unilateral declaration of independence by the Turkish Republic of Northern Cyprus (TRNC) in line with the relevant UN decisions¹⁹². Respect for the fundamental principles of international law and for the UN Security Council resolutions has always shaped the relations of the EU with the unrecognised North Cyprus government up to date. The EU has always rejected the self-

¹⁹² UNGA (16 May 1983). UN General Assembly Resolution on the Question of Cyprus. [A/RES/37/253](#).

determination request of Turkish Cypriots as ungrounded secessionist claims. In doing this, the EU emphasised the principle of territorial integrity and sovereignty of the Republic of Cyprus (RoC)¹⁹³. For instance, following the declaration of independence by the Turkish Cypriot leadership in 1983, the Commission declared that the Union “deeply regrets and rejects the unilateral declaration of independence of the Turkish Cypriot community. The Government of Cyprus is the sole legitimate representative recognised by the European Community” (cited in Brewin 2000a: 65). Subsequent declarations by the EU also reinstated that Cyprus’s ‘illegal division’¹⁹⁴ was unacceptable. Therefore, the EU has always supported a reunification on the island in accordance with UN resolutions.

According to Tocci, “[t]he advent of Cyprus’ accession process in the 1990s did not alter this fact. It only strengthened the EU’s existing aversion to a two-state solution” (Tocci 2007: 55). After the Greek Cypriot government’s membership application in 1990, the European Council of Ministers welcomed the application of the RoC in October 1993 arguing that membership would bring a lasting and balanced settlement to the problem in line with the UN principles¹⁹⁵. The EU’s initial engagement in Cyprus conflict resolution was shaped around the condition that integration of the island into the EU would be possible once a mutually agreed UN solution reunified the island.

After 1993, interest in the conflict resolution has increased among the EU institutions and the member states. The EU justified its close engagement in the conflict by assigning itself a set of interlinked normative objectives. First, the EU declared that that ‘the status quo is at odds with international law’ and the ongoing division had security implications not only for the island but for the entire region¹⁹⁶ and the EU could rejuvenate the stalled UN peace process. Especially, the Commission promoted the idea that the enlargement process would make a positive contribution to the ongoing UN negotiations. Moreover, the Commission also claimed that the membership prospect would be an

¹⁹³ The federal Cypriot state (RoC) was established in 1960 based on a power sharing agreement between Turkish Cypriot and Greek Cypriot communities. After inter-communal violence started, Turkish Cypriots were forced to leave or chose to boycott the common state institutions, started to live in enclaves, establishing their own governance starting from 1962-3 onwards. Since then, the RoC practically equals the Greek Cypriot government. There are excellent studies on the historical background of the division and the UN peace process. A few of those studies are Kyle, K., Ed. (1983). *Cyprus*, Minority Rights Group <http://www.cyprus-conflict.net/narrative-main.html>, Mirbagheri, F. (1998). *Cyprus and international peacekeeping*. London, Hurst, Brewin, C. (2000a). *The European Union and Cyprus*. Huntingdon, Eothen, Anastasiou, H. (2008). *The broken olive branch : nationalism, ethnic conflict, and the quest for peace in Cyprus*. Syracuse, N.Y., Syracuse University Press ; [London : Eurospan, distributor].

¹⁹⁴ EP (15 March 1990). European Parliament Resolution on the Current Cyprus Situation E. Parliament.

¹⁹⁵ European Commission (30 June 1993). Commission Opinion on the Application by the Republic of Cyprus for Membership doc/93/5

¹⁹⁶ Commission (1998). Regular Report on the Cyprus' Progress towards Accession Brussels.

incentive pushing both sides to reach a UN-mediated solution. In accordance with this idea, the final integration of Cyprus into the EU was initially subject to the condition of reunification and a mutually agreed settlement¹⁹⁷. Although the 1993 Commission opinion welcomed the membership application, the final decision on formal candidanship was initially delayed until another 'reassessment in light of the UN talks. The Commission stated that "as soon as the prospect of a settlement is surer, the Community is ready to start the process with Cyprus that should eventually lead to its accession" (Hakki 2007: 607).

In line with this argument, the EU continuously repeated its support for a UN solution and claimed that the accession process actually aimed at supporting and accelerating UN peace process. Throughout the 1990s, the Commission persistently reinstated that the integration prospect would create EU leverage to push both parties and thereby bring an unprecedented impetus to the endless rounds of the UN talks. For instance, the Commission opinion (Avis) on the membership application by the RoC declared that "a UN settlement would open the way to the full restoration of human rights and fundamental freedoms throughout the island and encourage the development of pluralist democracy"¹⁹⁸. Similarly, the conclusions of 1998 General Affairs Council in Luxembourg noted that

The objective (of the EU) remains a bi-communal, bi-zonal federation on the basis of a comprehensive political settlement in accordance with UN Security Council Resolutions. A political settlement would allow the provisions of the Accession treaty to be implemented throughout the island. Progress towards accession and towards a just and viable solution to the Cyprus problem will naturally reinforce each other. The Union reaffirms its full support for the search for a solution under the aegis of the UN.¹⁹⁹

In this sense, the EU has persistently claimed that the aim was not to bring an alternative to the UN peace process; contrarily, the UN mediation was supported as the only channel for a 'just and fair solution' for both sides. In short, the EU declared loyalty to the internationally accepted peace process by supporting it through a moral/normative decision to open up enlargement prospect. For instance, in his address to the Turkish Cypriot

¹⁹⁷ European Commission (30 June 1993). Commission Opinion on the Application by the Republic of Cyprus for Membership doc/93/5

¹⁹⁸ Ibid.

¹⁹⁹ Commission (1998). Regular Report on the Cyprus' Progress towards Accession Brussels.

business community, then Foreign Relations Commissioner Hans van den Broek argued that

Some will say this has been tried before, why should this year be different? The difference is that the Union has offered Cyprus membership, and that prospect could be the key that helps unlock a solution to the Cyprus problem²⁰⁰.

Second, The EU's engagement in the Cyprus conflict was put forward with a reference to the EU's own history of integration and internal political system as a peace project after the Second World War. The Union claimed that only through reconciliation and unification under the EU, the member states have improved security, liberty, respect for human rights, fundamental freedoms and democracy for people regardless of nationality and ethnicity. In this sense, the Union would assume a responsibility to bring a balanced solution respecting and guarding the co-demands of Turkish Cypriots after a reunification. Once the parties reach an agreement through the UN, the EU would act as a neutral actor that would eliminate tensions between the Greek and Turkish communities by accommodating and ensuring the implementation of a decisive solution (Nicolaidis 1990). In this sense, the EU would become a living example of reconciliation and peace for both sides. For instance, in the 1993 the Commission declared that

Cyprus's integration with the Community implies a peaceful, *balanced and lasting settlement of the Cyprus question* - a settlement which will make it possible for the two communities to be reconciled, for confidence to be re-established and for their respective leaders to work together. While *safeguarding the essential balance between the two communities and the right of each to preserve its fundamental interests*, the institutional provisions contained in such a settlement should create the appropriate conditions for Cyprus to participate normally in the decision-making process of the European Community and in the correct application of Community law throughout the island (Art 47)²⁰¹.

²⁰⁰ Hans van den Broek, Member of the European Commission, Cyprus and the European Union, Speech delivered in North Cyprus Young Businessmen's Association, 27 February, 1997.

²⁰¹ European Commission (30 June 1993). Commission Opinion on the Application by the Republic of Cyprus for Membership doc/93/5

The EU as a peace framework was actively promoted also by the high-ranking EU officials. Van der Broek noted that “our acceptance of Cyprus’s eligibility for membership of the Union takes account of the Turkish Cypriot Community’s concern for security and its desire to preserve its identity and develop its prosperity”²⁰². The EU’s own example as a consensual and reconciliatory decision making body would offer both formal (through Union treaties and accession act) and informal (shaming and blaming of other member states and EU institutions as a deterrent) guarantees (Diez 2002). More clearly, the presence of the EU as a framework and guarantor of reunification would obstruct the majority community, i.e. Greek Cypriots, to violate the terms of a future settlement. For a balanced and sustainable solution, an EU member Cyprus would mean a neutral space beyond the narrow and mutually-exclusive interests of the Greek and Turkish communities on the island. The 2001 Progress Report evidently supports this argument that the EU “will enable all Cypriots to enjoy the guarantee of fundamental democratic and human rights including the respect of cultural, religious and linguistic diversity. In the context of EU membership, the principles of democracy and the rule of law will be safeguarded throughout the island. Both Greek and Turkish Cypriots will participate in the work of EU institutions”²⁰³. In short, the EU nominated itself for providing the Greek and Turkish Cypriots with the ‘structures, guarantees and incentives that could hold together a bi-communal Cyprus’ (Emerson and Tocci 2002: 5). In justifying this claim, the EU presented its unique historical experience as a potential catalyser and a ‘power of attraction’ for the sceptical Turkish Cypriot community (Christou 2002).

In line with this discourse, the Commission continuously called the Turkish Cypriot representatives to join the Greek Cypriot delegation during the accession negotiations in order to convince them about the neutrality of the EU and its goodwill. The Commission declared that the EU was ‘determined to play a positive role in bringing a just and lasting settlement’²⁰⁴. Only through the presence of Turkish Cypriot negotiators within the team of RoC would ensure that Turkish Cypriots interests would be taken in due account and the accession would benefit the whole island²⁰⁵. Nevertheless, the EU avoided to incorporate a separate Turkish Cypriot delegation and asked the authorities in North

²⁰² Hans van den Broek, Member of the European Commission, Cyprus and the European Union, Speech delivered in North Cyprus Young Businessmen’s Association, 27 February, 1997.

²⁰³ Commission (2001). Regular Report from the Commission on Cyprus's Progress towards Accession. Brussels.

²⁰⁴ Commission (1998). Regular Report on the Cyprus' Progress towards Accession Brussels.

²⁰⁵ Commission (2000). Regular Report from the Commission on Cyprus's Progress towards Accession.

Cyprus to participate as a part of RoC delegation which was rejected by the Turkish Cypriot side (Tocci 2004).

Finally, the Commission argued that the economic benefits of integration into the EU would also establish a balance between the Turkish and Greek Cypriot economies. In 1993, the Commission noted that the membership would bring “a greater chance of narrowing the development gap between north and south”²⁰⁶. The Commission reinstated the same argument in the 2001 Progress Report which stated that “EU membership, in the framework of a settlement, will provide the most effective means for the northern part of the island to catch up in terms of economic modernisation, growth and development. The economic reforms associated with EU accession will reduce disparities in income levels and in living standards on the island”²⁰⁷. The 2001 Progress Report even identified the priority areas for the development of the economy of North Cyprus as ‘the establishment of a supportive and stable financial environment’, increasing ‘the level of public and private investment, leading to the improvement of physical infrastructure’, and the development of trade and investment particularly by the EU countries²⁰⁸.

In short, the dominant justificatory discourse that the EU framework relied on throughout the 1990s was based on a normative argument that the EU would be a potential catalyst for a UN solution because EU membership would offer a neutral space for protection and recognition of the interests and identity of Turkish Cypriots; and, at the same time, it would curb the secessionist desires and strive for independence by diminishing the importance of territorial borders (Peristianis 1998; Diez 2002). It was increasingly hoped that the prospect of accession negotiations would create a willingness for both sides to negotiate with goodwill and break the long impasse of the UN process. In the second half on 1990s, this hope turned into a firm belief that dominated the opinion in the Commission and some member states as well as the international community²⁰⁹.

²⁰⁶ European Commission (30 June 1993). Commission Opinion on the Application by the Republic of Cyprus for Membership doc/93/5

²⁰⁷ Commission (2001). Regular Report from the Commission on Cyprus's Progress towards Accession. Brussels.

²⁰⁸ Ibid.

²⁰⁹ UNSG (25 June 1996). Report of the Secretary General on his Mission of Good Offices in Cyprus. New York, UN. S/1996/467.

6.1.2 Pre-Accession: the European Parliament and the Council's Justifications

Despite the Commission's intentions and commitment to a balanced and normative approach towards North Cyprus, there were many other voices, political bargains and package deals that overshadowed the principled approach of the Commission. First, within the Parliamentary groups there was an alternative normative argument that contradicted the Commission's emphasis on a fair and balanced solution between the parties. Throughout 1990s, the European Parliament (EP) adopted a tougher discourse towards Turkish Cypriots and Turkey. During 1990s, the Turkish Cypriot government and Turkey followed a strict nationalist policy in relation to the UN efforts to reunite the island. In the widespread opinion of the EP, the Turkish position and the ongoing division of the island was in violation of human rights by Turkey/the Turkish Cypriot government since the division restricted the freedom of movement and the right to own property on the island. For instance, the Parliament Resolutions dating January 1993 and October 1996 clearly placed the burden of the stalled UN talks on the Turkish side and called for immediate demilitarisation of the island and international sanctions against Turkey²¹⁰. The EP resolutions emphasised that the Greek Cypriot side was not responsible for the current state of the division; and thereby, the EU could not delay enlargement by making it dependent on a final settlement. The EP argued that the division was due to a foreign invasion and the conditionality promoted by the Commission would mean punishing Greek Cypriots for the Turkish occupation (Brewin 2000a).

The EP also claimed that the EU should act on the basis of its own principles and international law and should not give an opportunity to a 'foreign occupant' 'to dictate the date and pace of accession negotiations' (Verney 2006: 15). Some groups in the EP argued that the extra conditionality regarding a decisive settlement on the island 'would ultimately grant a third party with a dubious democratic record, Turkey, and the Turkish Cypriots, power over the outcome of the Cyprus-EU negotiations, and the RoC would be held hostage by illegal occupiers of its territory' (Ramming 2008: 381). In principle, the EP converted the enlargement into a moral mission for the EU and a right that cannot be denied to the RoC. However, as this moral responsibility became more widely pronounced, the fundamental question for membership started to be pictured solely as an inter-state

²¹⁰ Parliament (1993). European Parliament Resolution of 21 January 1993, Parliament (1996). European Parliament Resolution on Cyprus 24 October 1996.

dispute between Turkey and the RoC without any attention paid to the history of conflict and concerns of the Turkish Cypriot community.

Second, the Commission's balanced normative stance was overshadowed by political trade-offs and bargains between the Council, Greece and Turkey. As soon as the Commission issued its opinion linking the situation on the island to the membership application, Greece started to lobby inside the EU in favour of Greek Cypriot membership even in the case of failed UN negotiations. Only one year after the Commission gave its opinion, in June 1994, the Council decided to involve Cyprus for the next phase of enlargement during the Corfu European Summit under the Greek Presidency²¹¹. From the Corfu Council onwards, the Commission's normative argument justifying the EU's involvement in conflict resolution started to fade gradually. An alternative to the Commission's 'reunification then membership' approach, the East German example dominated the Council circles where the recognised part could become a member state and the *acquis* would be suspended in the 'unrecognised part' until reunification (Tocci 2004).

In March 1995, the EU took one step further during the General Affairs Council (GAC) and opened up structural dialogue as the first step of the accession process with the Greek Cypriot government²¹². In December 1997, the Luxembourg European Council concluded that Cyprus could start negotiations in March 1998 without putting progress in the UN peace process as a precondition. This decision was tied to a package deal. In return, Greece removed its veto against Turkey's Customs Union Agreement with the EU. While the GAC conclusions reaffirmed the EU's desire to see Cyprus united as a bi-communal/bi-zonal federation, the decision opened up the accession negotiations with the Greek Cypriot government, despite the lack of progress in UN peace talks; and thereby, it contradicted the Commission's preference for a balanced solution on the island.

The role of Greece pushing the Council from within was decisive for the changed approach of the EU towards conflict resolution. For instance, in 1996, Greek Foreign Minister Pangalos stated "if Cyprus is not admitted, then there will be no enlargement of the Community, and if there is no enlargement, there will be no end to the negotiations now going on for the revision of the treaties, and the Community will thus enter into an unprecedented crisis"²¹³. Again in 1997, Pangalos declared that it is Greece that will

²¹¹ Council (24-25 June 1994). Corfu European Council Presidency Conclusions. Corfu, Bulletin of the European Communities. No 6/1994.

²¹² GAC (6 March 1995). General Affairs Council of Ministers Decision on Cyprus's Accession available at http://kypros.org/CY-EU/eng/07_documents/document002.htm.

²¹³ Cyprus News Agency, 22.11.1996, "Cyprus to be included in next EU enlargement".

determine when Cyprus will join the European Union (Brewin 2000a). These decisions quickly transformed the EU's initial position regarding the prerequisite for membership (i.e. the UN sponsored solution on the island before accession).

In, 1999 another package deal to solve a complex crisis between Greece, Turkey and the EU invalidated the Commission's balanced framework further. Against the background of Greece's threat to veto the candidate status of Turkey, if the RoC was not granted membership, Turkey declared that it would block the EU access to NATO military and command structures. In the 1999 Helsinki Council, the heads of member states solved the crisis by granting accession to the RoC with or without a solution and by giving a candidate status to Turkey, simultaneously. As a result, additional conditionality for Cyprus was totally lifted. The 1999 Helsinki decisions noted:

The European Council underlines that a political settlement will facilitate the accession of Cyprus to the European Union. If no settlement has been reached by the completion of accession negotiations, the Council's decision on accession will be made *without the above* [i.e. political settlement] *being a precondition*. In this the Council will take account of all relevant factors.²¹⁴

Again, earlier in 1999, the President of RoC Clerides and Greek PM Simitis were closely coordinating their positions. Ramming (2008: 379) notes that then president of the RoC Clerides outlined the conditions for Greece to lift its veto on Turkey's EU membership. Only after the Council lifted almost all conditions for accession, Greece 'completely turned around on Turkish EU membership' (Ramming 2008: 379).

It is worth noting that in the second half of the 1990s, Turkey and the Turkish Cypriot position was increasingly perceived as the intransigent party stumbling the UN efforts within the EU (Nugent 1997) and scheduling accession negotiations with the RoC was considered also as a push for the hardliners in North Cyprus for concessions on the negotiation table. In this sense, the Council's changing attitude was easily justified given the intransigence of the TRNC leadership.

Contrary to the Turkish and the Turkish Cypriot position, the EU had trust in the good faith of the Greek Cypriot leadership which showed considerable support for reunification under the Clerides government. Since the RoC was more conciliatory during

²¹⁴ Council (10-11 December 1999). European Council Helsinki Summit Presidency Conclusions.

the UN peace talks. As a result, throughout the 1990s until the referendum, the RoC was considered sufficiently motivated for a reunification on the island and the EU did not use 'threat of non-accession' against the RoC (Ramming 2008: 381-2). Undeniably, this trust in the Greek Cypriot government and the public opinion hardened the EU's position towards the Turkish Cypriot side and undermined the Commission's normative arguments for a balanced solution (Tocci 2004). Eventually, the Commission's Agenda 2000 justified the decision to open up accession negotiations without a political settlement on the island in the following statement:

The Union cannot, and does not wish to, interfere in the institutional arrangements to be agreed between the parties. ... The timetable agreed for accession negotiations to start with Cyprus means that they could start before a political settlement is reached. ... Agreement on a political settlement would permit a faster conclusion to the negotiations. If progress towards a settlement is not made before the negotiations are due to begin, they should be opened with the government of the Republic of Cyprus, as the only authority recognized by international law.²¹⁵

The EU was forced to walk a thin line on two fronts trying to balance first, between the TRNC-RoC negotiations under the UN auspices and the RoC-EU negotiations at the same time, and second, between the normative approach of the Commission and other opinions among the EP ranks and within the Council. Greece's pressures inside the Council subsequently transformed the EU's normative and balanced framework from 'solution first' principle to 'membership free from strings of UN process' policy. The institutional features of the European Council -such as the veto right and the rotating presidency- increased the importance of bargaining power at the expense of the Commission's normative approach. The package deals and bargains turned the EU's approach towards conflict resolution into an inter-state bargain and undermined the Commission's approach justifying the EU's interest and engagement in conflict resolution through a normative framework. Although the Commission's framework (that the EU could become a catalyst and a role-model for a reunified Cyprus) remained as one of the most cited arguments in justifying the EU's engagement in Cyprus even by the member states, the Commission's

²¹⁵ Agenda2000 (13 July 1997). For a stronger and wider Union. COM (97) 2000. E. Commission. Bulletin of the European Communities. Supplement 5/97.

message often got lost among the package deals and inter-state bargains and failed to reach to the Turkish Cypriot community.

6.1.3 The Post-Accession Period: a more unified Union

Until the referendum, the EU's normative framework of conflict resolution in Cyprus was mostly built upon the UN parameters, rejection of the independence claims of Turkish Cypriots, the moral responsibility of the EU towards Greek Cypriots and the normative value of the EU framework as catalyser and guarantor for conflict resolution. In the 2004 referendum for reunification of the island, the Greek Cypriot side rejected the Annan Plan and the divided island has become a member of the EU²¹⁶. Although the island has become a member in its entirety, the implementation of the *acquis* is suspended in North Cyprus.

The Greek Cypriot rejection of the Annan Plan was rather unexpected and created a sense of betrayal inside the Union. On the other hand, the grand-scale local movements supportive of a reunification in the north, the constructive role played by the new Turkish Cypriot government during the last phases of the UN negotiations, and finally the positive vote of the Turkish Cypriot public in the referendum have fundamentally altered the EU's perception of the conflict parties and its subsequent relations with them.

The previously existing EU perceptions of the Turkish Cypriot side as the intransigent and secessionist party were replaced by a normative argument in favour of closer and direct relations with the Turkish Cypriot community which has also shaped the policy tools of the EU towards North Cyprus. Before the referendum, the EU had only established direct relations with the Turkish Cypriot civil society, whilst it had avoided granting a tacit approval to the authorities in North Cyprus by way of direct relations. Immediately after the referendum, the EU's attitude was profoundly altered. In Christou's (2012: 10) words, the change of the EU's attitude is a "normative (re)classification of the hegemonic discourse of blame". This change is clearly visible in the European Commission's statement issued after the referendum to evaluate the result:

The European Commission deeply regrets that the Greek Cypriot community did not approve the comprehensive settlement of the Cyprus problem, but it respects

²¹⁶ Two separate referendums were held simultaneously in Greek and Turkish parts of the island on 24 April. The result was rather appalling for the EU: 64.9% of Turkish Cypriots voted in favour of Annan Plan and reunification while 76.8% of Greek Cypriots rejected it. The divided island became a member of the Union on 1 May 2004 and the implementation of the *acquis* in North Cyprus was suspended.

the democratic decision of the people. A unique opportunity to bring about a solution to the long-lasting Cyprus issue has been missed. The European Commission would like to warmly congratulate Turkish Cypriots for their 'Yes' vote. This signals a clear desire of the community to resolve the island's problem. *The Commission is ready to consider ways of further promoting economic development of the northern part of Cyprus*²¹⁷.

The then Enlargement Commissioner Verheugen expressed the reason of the normative turn more bluntly. Cyprus Mail on 22 April 2004 quoted the Commissioner stating that "I feel cheated by the Greek Cypriot government. We had a clear agreement on this point. Mr Papadopoulos must respect his part of the deal. Under no circumstances was a resolution to the conflict to fall as a result of opposition from the Greek Cypriot authorities". Not only the EU institutions, but also various member states declared the unsustainability of the isolation of Turkish Cypriots under new circumstances. For instance, the Austrian Foreign Minister Ferrero-Waldner noted that "[t]he fact that the referendum resulted in a positive vote on the Turkish side of Cyprus should be appropriately honoured by the international community"²¹⁸. The Swedish Prime Minister and the French Foreign Ministry called the EU to reconsider its economic development agenda towards North Cyprus²¹⁹. Similarly, the Czech Foreign Ministry noted that Turkish Cypriots "should not become hostages of the situation they will face after 1st May resulting from the refusal of the Annan plan in the south part of the island"²²⁰.

The change in the approach towards the Turkish Cypriot community on the island was widely shared by the international community as well. The UNSG stated that he regretted the Turkish Cypriot community would not be able to equally 'enjoy the benefits of EU membership' and expressed his hope that an alternative would be "found to ease the plight in which the people find themselves through no fault of their own" (Annan 2004). The Secretary General openly called on the international community to help lifting isolations applied to the Turkish side:

²¹⁷ European Commission (24 April 2004). Commission statement following the outcome of the referendum in Cyprus. E. Commission. Brussels.

²¹⁸ Embargoed! (2005) "Testimony: A World of Broken Promises." <http://www.embargoed.org>.

²¹⁹ Ibid.

²²⁰ Ibid.

The Turkish Cypriot vote has undone any rationale for pressuring and isolating them. I would hope that the members of the Council can give a strong lead to all States to cooperate both bilaterally and in international bodies, to eliminate unnecessary restrictions and barriers that have the effect of isolating the Turkish Cypriots and impeding their development - not for the purpose s of affording recognition or assisting secession, but as a positive contribution to the goal of reunification²²¹

Similarly, the Parliamentary Assembly of the Council of Europe declared that

The Assembly pays tribute to the Turkish Cypriots, who supported the Annan Plan by an overwhelming majority, thus opting for a future in Europe. The international community, and in particular the Council of Europe and the European Union, cannot ignore or betray the expressed desire of a majority of Turkish Cypriots for greater openness and should take rapid and appropriate steps to encourage it. The Turkish Cypriots' international isolation must cease. The Assembly therefore welcomes the support expressed by several European political leaders for financial assistance for the Turkish Cypriots and an easing of the international sanctions against them. ... The Assembly considers it unfair for the Turkish Cypriot community, which has expressed clear support for a reunited and European Cyprus, to continue to be denied representation in the European political debate²²².

Therefore, the EU's discursive shift has remained loyal to the broad international opinion. The 'normative reclassification' of the EU's position in North Cyprus did not depart from rejection to recognise North Cyprus but opened a new chapter in the relations between the EU and the Turkish Cypriot community under the new international opinion on North Cyprus after the 2004 referendum.

The altered normative argument favouring Turkish Cypriots and publicly disapproving the Greek Cypriot rejection of the Annan Plan heralded a new era in the Turkish Cypriot-EU relations. Based on the new normative justifications, various declarations have become supportive of an alternative integration scheme for Turkish

²²¹ UNSG (28 May 2004). Report of the Secretary-General on his mission of good offices in Cyprus. New York, UN. S/2004/437.

²²² CoE (2004). Resolution 1376 (2004). Council of Europe Parliamentary Assembly 15th Sitting. <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta04/ERES1376.htm>.

Cypriots. In this sense, the EU has opened the way for direct and continuous relations with North Cyprus not only at the civil society level but also at the elected representatives of the Turkish Cypriot community for the first time independent of the recognised Greek Cypriot government. The new EU framework and normative argument has provided the EU with a justification to directly address Turkish Cypriots through tangible policies bypassing the Greek Cypriot government on some occasions.

6.2 The EU as a Policy Actor: Conflict Resolution Tools on the Ground

The EU also relies on specific policy tools addressing Turkish Cypriots in order to support its normative/justificatory framework. It would be fair to claim that the EU's policies addressing Turkish Cypriots were the result of the change in the EU's normative turn in the post-referendum period. During the 1990s, the EU supported civil society groups and the pro-reunification opposition. However, the Union avoided establishing direct relations with the nationalist authorities in the north and conflict resolution policies were rather based on the intangible future benefits of enlargement and power of attraction. The lack of direct relations between the TRNC authorities and the EU was partially due to the rejection of the nationalist government in North Cyprus and partially a result of the EU's non-recognition policy.

Tangible policies addressing North Cyprus have steadily increased deepening the EU's involvement in policy-making in the north following the Greek Cypriot rejection of reunification in 2004. Besides increased civil society support, the official relations between the EU and Turkish Cypriot authorities have taken a semi-formal and regular shape thanks to the Commission's and the Parliament's initiatives. Moreover, the EU offered financial help for economic development independent from the Greek Cypriot government.

6.2.1 The European Parliament and Novel Relations with Local Groups

The first institutionalised relations between North Cyprus and the EU started in September 2005 when the European Parliament Conference of Presidents set up the 'High-Level Contact Group for Relations with the Turkish Cypriot Community in the Northern Part of the Island of Cyprus' (hereinafter 'the Group') in order to respond to

the pressing need to strengthen relations with the Turkish Cypriot community after accession of the Republic of Cyprus to the European Union and to contribute in a

manner which is constructive and respectful of all sensibilities to defining a *modus operandi* for Parliament vis-à-vis the Turkish Cypriot community, until such time as the question of reunification of Cyprus has been resolved²²³.

The Group was set up with an intention to hold broad-based contact with local civil society, political parties, media and religious organisations as well as other international organisations dealing with conflict resolution. It was given an observatory and information-disseminating mandate through field visits and meetings in North Cyprus. The Group had a double function. It continuously called the EU institutions and the member states to generate genuine political will in order to end the isolation of the northern part of the island through a comprehensive settlement of the division. In an interview in 2010, The coordinator of the Group MEP Libor Roucek stated that direct trade with North Cyprus was a ‘promise of the EU in the beginning; and restoring support for the EU among Turkish Cypriot community would be only possible through lifting isolations of Turkish Cypriots and applying the same citizenship rights’ (see section 6.2.3 on this point)²²⁴. The Group also supported adoption of Turkish as an official language of the EU and representation of Turkish Cypriots in the Parliament as citizens of the Union²²⁵.

The Group also increased the visibility of the EP and the EU through broad and direct consultations with the local groups. Roucek noted that meetings with the TRNC authorities and the Brussels representation of the TRNC were a part of the Group’s mission in order to meaningfully carry out its mandate. Before its dissolution in 2012, the Group met with the then President of the TRNC Mehmet Ali Talat, and other senior political representatives as well as the representatives of the Turkish-Cypriot Chamber of Commerce (KTTO) and a wide range of Turkish Cypriot civil society organisations. The Group also held meetings and discussions with students²²⁶. As a result, besides proving to be symbolically important as the first EU body to engage with North Cyprus formally, the group provided a useful setting for direct consultation between various local groups and the EU.

²²³Parliament (March 2006). Report to the Conference of Presidents of the High-Level Contact Group for relations with the Turkish Cypriot community in the northern part of the island. E. Parliament.

²²⁴ Haber Kıbrıs, 18.07.2010, Roucek: “Kıbrıslı Türklerle ticarete evet, Kıbrıslı Türklerin izolasyonuna hayır”, [Roucek: Yes to trade with Turkish Cypriots, No to isolations of Turkish Cypriots].

²²⁵ <http://www.cyprus44.com/news/99.asp>.

²²⁶ EPP Group Press release, 06.06.2006, Cyprus: European Parliament High-Level Contact Group committed to contribute to ending the isolation of the Turkish Cypriot community, available at: <http://arc.eppgroup.eu/press/showpr.asp?PRControlDocTypeID=1&PRControlID=4947&PRContentID=8909&PRContentLG=en>.

Since Turkish Cypriots could not be represented at the EU institutions, the Parliament also introduced an alternative way of integrating Turkish Cypriots into the EP. As an extension of the informal dialogue with the pro-solution groups, the Republican Turkish Party (CTP) was invited to the European Parliament by the Socialist Group as an observer in the post-accession phase.

Despite the promising relations in the post-2004 period between the EP and the Turkish Cypriot government and civil society, the relations were short-lived. The Contact Group's membership structure was reorganised in early 2012 and Roucek was replaced by MEP Grossetête (from the EPP) as the coordinator. It was already known that the Group members held different opinions on the relations with the Turkish Cypriot community. While the Green, Liberal and Socialist MEPs supported close relations with the TRNC authorities, more centre-right groups, such as the EPP, were not willing to hold meetings in the north of the island (Vucheva 2007). After this reorganisation, the Group's activities in North Cyprus fundamentally decreased. The Group distanced itself from Turkish Cypriots rejecting direct communication and consultations in the unrecognised part of the island²²⁷. The change of the attitude was mostly due to the split among the Group members regarding the approach towards having direct relations with North Cyprus. As a result, the last meeting of the Group took place in February 2012 and finally, it was dissolved in 2012 due to the loss of mission's sense and the lack of progress in relations between the EU and Turkish Cypriots²²⁸.

6.2.2 The Commission's Civil Society Dialogue and Steering Group

For a long time, Turkish Cypriot civil society was the only local actor in North Cyprus supportive of the UN peace process and EU accession. (CIVICUS 2011). As a result, supporting pro-solution local civil society has been a part of the EU's conflict resolution 'policy pack' through which the EU aims at generating "a positive transformative impact" in North Cyprus (Tocci and Mikhelidze 2010: 159). In this sense, relations with the Turkish Cypriot civil society is an emblematic example of civil society-EU dialogue since 1990s. Through civil society support, the EU first aims to divorce the Cyprus problem

²²⁷ European Voice, 08.07.2010, 'The no-contact group: Keeping contact with Turkish Cypriots to a minimum'.

²²⁸ On the dissolution on the Group, available in Turkish only at <http://www.ctp-bg.org/ctp-haberler-887-kibrisli-turklerle-temas-grubu-dagildi>. After the change of leadership of the Group, in the local media, the criticisms towards the Contact Group started to increase.

from international actors and focus on intercultural dialogue and to engage local actors in the reconciliation process. The EU has not only aimed to empower local groups opposing independence ideology of the TRNC government, but also to enhance dialogue and problem solving efforts between the Greek and Turkish Cypriot civil society groups.

In the post-accession period, the Commission's support for civil society organisations has been reinforced and regularised through the 'Cyprus Civil Society in Action Programme'. The Programme aims to "strengthen the role of civil society in the Turkish Cypriot community and to promote a conducive environment for further development of trust, dialogue, cooperation and closer relationship between the Turkish Cypriot and Greek Cypriot communities as an important step towards a solution"²²⁹. In order to realise this goal, the EU offers technical, financial and political support to local actors. Civil society actors are encouraged to generate an environment conducive to reconciliation and confidence building, promotion of more equality in society by including women and disabled people, research, publication or conference organisation to address the roots causes of the conflict²³⁰.

The Commission also increased its direct involvement in the UN peace process through the Steering Group and personal representative of the Commission President that have become a part of renewed UN talks since 2008²³¹. The reason for the EU to seek a direct engagement with the UN process is that any future settlement would require flexibility and adaptation on the side of the EU to accommodate co-concerns of both communities. The enlargement Commissioner Olli Rehn noted the reason of the EU's increased engagement by stating that "[i]t is in the EU's interest to see a reunification of the island and the end of a conflict on European soil that is now more than 40 years old. Such division is unacceptable within our European Union, which is founded on the principles of peace, reconciliation and human rights"²³².

Practically, the EU still accepts the UN's authority to carry out the peace process. The Steering Group meets regularly to discuss 'the results of the on-going settlement talks' and follows closely 'the EU related aspects of a future settlement'. After every meeting

²²⁹ INTRAC (2010). EU Civil Society Support Team, Cypriot Civil Society in Action: Awarded Projects. Nicosia, <http://www.intrac.org/data/files/resources/712/Research-Briefing-Paper-November-2011.pdf>.

²³⁰ Author's interview with the Commission Task Force for Turkish Cypriot community, February, 2012.

²³¹ See UN. (23 May 2008). "Joint Statement by Greek Cypriot Leader Demetris Christofias and Turkish Cypriot Leader Mehmet Ali Talat." Available at http://www.uncyprustalks.org/nqcontent.cfm?a_id=2831. UNSG (30 November 2009). Report of the Secretary-General on his mission of good offices in Cyprus. New York UN. S/2009/610.

²³² Lecture at Helsinki University on 27 November 2006, 'Turkey's accession process to the EU', available at: http://ec.europa.eu/commission_barroso/rehn/press_corner/speeches/speeches_2006_en.htm.

Barosso issues an official declaration calling upon the leaders to support the continuing efforts of the UN good offices mission and ‘encouraging both leaders to conclude their talks successfully in the coming months’²³³.

6.2.3 Lifting the Turkish Cypriot Isolations: Financial Aid and Trade

The final policy tool that target Turkish Cypriot community in the post-accession period is lifting the isolations in order to accelerate the economic development and future reunification of the island. This policy has become the most active instrument for the EU to contribute to the conflict resolution process. In the post-2004 period, the EU has continued to emphasise the importance of a reunification and presented new policies as a part of its broader objective of reconciliation and decisive settlement of the conflict. In addition to the discursive commitments of the pre-accession years, the EU devised proposals to facilitate intra-island trade, financial assistance and direct trade. In this sense, the EU claims that economic development of North Cyprus would benefit both sides by reducing the costs of future reunification. Through these measures, the EU aims to lift the isolations of Turkish Cypriots and support North Cyprus to close the economic gap with the RoC by generating income from trade and other economic activities²³⁴. The statement of the Council on 26 April 2004, issued two days after the referendum, stated these objectives:

The Turkish Cypriot community have expressed their clear desire for a future within the European Union. The Council is determined to put an end to the isolation of the Turkish Cypriot community and to facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot community. The Council invited the Commission to bring forward comprehensive proposals to this end, with particular emphasis on the economic integration of the island and on improving contact between the two communities and with the EU²³⁵.

In line with the objectives in this statement, the Commission has proposed three policies: trade between the two communities on the island, financial aid to the Turkish Cypriot

²³³ See <http://famagusta-gazette.com/barroso-chairs-meeting-of-the-cyprus-steering-group-p13810-69.htm>.

²³⁴ Author’s interview, the Commission Task Force, op. cit.

²³⁵ Council (26 April 2004). 2576th Council meeting General Affairs Conclusions. Luxembourg.

community and direct trade between North Cyprus and the EU. First, knowing that little time left before the accession of the RoC on 1 May 2004, the Commission acted promptly upon the request from the Council and issued a proposal known as the Green Line Regulation (GLR) as a last minute arrangement before the RoC's accession. The regulation has allowed trade through the Green Line (which separates the north from the south and monitored by the UNFIYCYP since 1964) which has become the *de facto* external border of the EU. Citing the necessity of regulating the *de facto* border of the EU, the Commission stated that since the Green Line was not an official external border of the Union, special rules "concerning the crossing of goods, services and persons" were necessary in order to prevent "illegal immigration and threats to public order"²³⁶.

According to the GLR, the goods which are "wholly obtained in the areas not under effective control of the Government of the Republic of Cyprus ... shall not be subject to customs duties or charges having equivalent effect"²³⁷. In order not to grant tacit recognition to the authorities of North Cyprus, the Regulation conditions trade through the Green Line only if the goods are accompanied by documents issued by the Turkish Chamber of Commerce (KTTO) which is currently the sole recognised institution in North Cyprus.

In justifying trade through the Green Line which is a *de facto* border that is not recognised by the EU, the Council and the Commission referred to the Protocol 10 of the Accession Treaty of the RoC. The Protocol 10 suspends the implementation of the *acquis* in North Cyprus (Art 1). However, the Protocol also acknowledges that "nothing ... shall preclude measures with a view to promoting the economic development of the areas that are not under effective control of the Republic of Cyprus" (Art 3). Given this article, the Commission claimed that "the suspension does not affect the personal rights of Turkish Cypriots as EU citizens. They are citizens of a Member State, the Republic of Cyprus, even though they may live in the northern part of Cyprus, the areas not under government control"²³⁸.

Second, the 26 April decision of the Council signalled the start of an active policy towards the Turkish Cypriot community. In July 2004, after the RoC's accession to the

²³⁶ Commission (2004). Proposal for a Council Regulation on special conditions for trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control European Commission, 7.7.2004 COM(2004) 466 final. Brussels.

²³⁷ Council (29 April 2004). Council Regulation on a regime under Article 2 of Protocol 10 to the Act of Accession. (EC) No 866/2004. E. Council. Official Journal of the European Union L 161 of 30 April 2004.

²³⁸ Commission. (no date). "Turkish Cypriot Community." http://ec.europa.eu/cyprus/turkish_cypriots/index_en.htm Retrieved November 2012.

EU, the Commission took another decisive step to economic development in North Cyprus with an aim to facilitate inter-communal cooperation and future reunification. The Commission proposed a package of new areas of institutionalised relations with North Cyprus as ‘Comprehensive Measures to end Isolation of Turkish Cypriot Community’. The Enlargement Commissioner conveyed a message to local groups on North Cyprus that the EU was ready to offer tangible gains to Turkish Cypriots in accordance with its new normative framework in the post-accession period. In his words,

As the Turkish Cypriot community expressed overwhelming support for the UN Plan to reunify Cyprus, it would have been unfair, to say the least, to leave it out in the cold. The Commission is therefore happy to propose an aid and trade scheme, which, if adopted by the Council, will foster the economic development of the northern part of the island. It will also build new bridges between the two communities and thus keep alive hopes of the reunification of Cyprus²³⁹.

One of the pillars of the Commission’s proposal was the Financial Aid Regulation (FAR) which offered financial support for the economic and political development of the Turkish Cypriot community. The FAR was eventually adopted in February 2006²⁴⁰. In practice, the regulation sets multiple aims besides economic development. For instance, the Commission foresees support for harmonisation of legislation of TRNC with the EU law, confidence building measures between parties, infrastructure building with an outlook to withdraw the suspension of the *acquis* in the north after a settlement, and economic integration of both sides. In order to realise these objectives, the FAR initially offered 259 million euros between 2004 and 2006 with an aim to directly allocate the aid to the Turkish Cypriot beneficiaries (local governmental bodies, civil society, non-governmental organisations, business groups, foundations)²⁴¹.

In order to allocate the financial aid, the Turkish Cypriot Community Task Force was set up within the DG Enlargement. As an extension of the Task Force, a Programme Support Office (EUPSO) was established in the northern sector of Nicosia (Lefkoşa).

²³⁹ European Commission (7 July 2004). Commission proposes comprehensive measures to end isolation of Turkish Cypriot community. [IP/04/857](#). Brussels.

²⁴⁰ European Council (27 February 2006). Council Regulation establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community and amending Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction. [EC No 389/2006](#). E. Council. Brussels.

²⁴¹ Ibid.

Since September 2006, the EUPSO has been acting on a daily basis with the TRNC authorities in complete independence from the official Commission representation in Nicosia's Greek Cypriot sector²⁴². The support office claims to be purely technical in its dealings with the project implementation and is not equal to an EU representation office in the north. However, in practice the TRNC authorities hold regular meetings for discussing implementation of specific projects and TAIEX- a tool of Enlargement Directorate General to facilitate the approximation, application and enforcement of EU legislation in candidate countries. In other words, the Commission works through a pseudo-representation in North Cyprus to guide harmonization of the Turkish Cypriot law and monitor and mentor the distribution of the structural funds²⁴³. In this sense, the EUPSO has become a semi-official representation office of the EU, albeit the total anonymity of the officials and reluctance to expose the EUPSO to public awareness²⁴⁴.

Finally, as a part of the broader policy of lifting isolations of the north, the July 2004 proposal introduced the Direct Trade Regulation (DTR). The aim of the proposal is "to facilitate trade between the areas [North Cyprus] and Member States other than Cyprus"²⁴⁵. In line with the objective, the Commission has proposed preferential treatment for products originating from the north after being certified by the KTTO. In the proposal, the Commission again justified the DTR in relation to the Protocol 10. The Commission also made an analogy with Ceuta, Melilla and Gibraltar which have special trade relations with the Union and claimed that the legal basis for the regulation would be Art 133 EC which regulates the Common Commercial Policy²⁴⁶.

Nevertheless, the DTR has become the most stringent knot in the relations between the EU and the Turkish Cypriot authorities as well as Turkey. Since April 2004, it remains blocked by Greek Cypriots claiming that the DTR falls under the Protocol 10 of the Accession Treaty (i.e. Greek Cypriot government claims that direct trade requires lifting the suspension of the *acquis*); and thereby, unanimity is necessary for its approval, contrary to the claim of the Commission. In other words, the Greek Cypriot government

²⁴² Author's interview, the Head of TRNC EU Coordination Centre Erhan Elçin, February 2012, Nicosia

²⁴³ Author's interview, Erhan Elçin, op. cit.

²⁴⁴ Author's interview with the Commission Turkish Cypriot Community Task Force, 2012.

²⁴⁵ Commission (2004). Proposal for a Council Regulation on special conditions for trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control European Commission, 7.7.2004 COM(2004) 466 final. Brussels.

²⁴⁶ Council (7 July 2004). Proposal for Council Regulation on special conditions for trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control. COM(2004) 466 final 2004/0148 (ACC). Brussels, European Commission.

challenges the basis of the DTR as Article 133 and the Commission's argument as 'legally wrong and politically questionable'²⁴⁷.

Despite the contrary claims of the Commission and the Parliament that direct trade would encourage and prepare a future reunification²⁴⁸, the Greek Cypriot side is convinced that direct trade is "purely a political reward for the Turkish Cypriots, not justified by economic considerations that would culminate into the creeping or overt recognition of the secessionist entity in the north"²⁴⁹. All major political parties, the Greek Cypriot public and non-governmental organisations agree that allowing direct trade would backfire in the long term by making a settlement less likely. In the view of the RoC, trade with the Turkish Cypriot side can only be allowed through the ports in the south administered by the Greek Cypriot government. Trade through the EU administered ports in the north and a complete lift of the isolation of Turkish Cypriot authorities are uniformly rejected by the local groups in the Greek Cypriot side (Yesilada 2007).

As a result, the problem of approval of the DTR has become divisive between the Commission which issued the proposal and the Council and the Parliament, the two institutions where the RoC government can exercise a veto and lobbying power. Until now, the Commission has remained committed to direct trade with North Cyprus and reinstated many times that the proposal must be reconsidered without delay in order to facilitate integration of North Cyprus into the EU. However, in August 2004, the Legal Service of the Council issued its opinion on the direct trade question which stated that "the Commission's proposal would amount in substance to a withdrawal of the suspension of the *acquis*"; and therefore, it falls under the condition of Protocol 10 of the Act of Accession²⁵⁰. Since the Act of Accession has primary law value, the Legal Service decided that only after a unanimous vote that would revise the suspension of the *acquis* in the north, the Commission's Proposal can be accepted. Even further, the opinion noted that the decision of the Greek Cypriot government, as the only recognised state on the island, which declared the ports in the north closed in 1974 should be respected by the EU. As a result, the Legal Service concluded that "designation of any other authority (KTTO as offered by the Commission) is against Security Council Resolutions and would amount to

²⁴⁷ UK Parliament (2005). The European Union Dimension Cyprus and the EU. Select Committee on Foreign Affairs

²⁴⁸ Parliament (16 March 2006). European Parliament's Resolution on the Commission's 2005 enlargement strategy paper (2005/2206(INI)). paragraph 29.

²⁴⁹ UK Parliament, op. cit.

²⁵⁰ Art.1.2 of the Protocol states '[t]he Council, acting unanimously on the basis of a proposal from the Commission, shall decide on the withdrawal of the suspension' of the *acquis* in the north.

“explicit recognition of another authority other than the Government of the Republic of Cyprus”²⁵¹. In short, the legal opinion implied that adoption of the Commission’s proposal would be contrary to the international law which gives entitlement to any sovereign state to decide on the closure of its ports. The Legal Opinion of the Council Legal Service has no binding authority but it is strongly placed against the Commission’s proposal.

After the opinion, the Commission insisted that the proposal falls under Article 133 and did not withdraw it from the Council’s agenda. The Commission even opposed the dominant view of the other EU institutions by arguing that the Greek Cypriot objections cannot be justified under the European and international law and direct trade is not akin to recognition (Christou 2012). In fact, after the Lisbon Treaty entered into force, the Commission pressed once more that with the EP’s co-decision making role in trade agreements, it would be possible to approve the DTR (Akyel Collinsworth and Pope 2010). The proposal was brought to the EP’s agenda; nevertheless, in September 2010, the Legal Affairs Committee of the EP issued an opinion on the DTR which mostly shares the opinion of the Council’s Legal Service (Tocci 2010)²⁵². Currently, the proposal is also removed from the agenda of the Parliament due to this opinion²⁵³.

To sum up, the EU policies are important since the Union has established direct institutionalised relations with the authorities in North Cyprus independent of the Greek Cypriot administration for the first time by implementing the GLR and the FAR. However, the EU has continued to closely follow the international practice towards North Cyprus by persistently claiming that the direct relations does not confer any tacit recognition and aims at first, closing the economic gap between the north and the south and ease the complications of the future reunification and second, maintaining the impetus in favour of reconciliation and reunification in North Cyprus after the RoC’s accession into the EU. However, it is difficult to establish a unified opinion on the EU’s main objectives and policies on the direct trade with North Cyprus. The irreconcilable attitudes of EU institutions towards North Cyprus demonstrates that despite the fundamental normative shift in the EU discourse, the EU confronts a dilemma in relation its role as a policy-

²⁵¹ European Council (24 August 2004). Council of European Union Opinion of the Legal Service 11874/04. Brussels.

²⁵² According to Natalie Tocci the Legal Committee of the EP has ‘washed its hands of the affair’ through this decision. However, ‘[i]n doing so, it not only underplayed its own powers under the Lisbon Treaty, but also wasted the opportunity to revamp one of the most important political relationships of the EU as a whole: the accession process with Turkey’ Tocci, N. (2010) “The Bffling Short-sightedness in the EU-Turkey-Cyprus Triangle.” Istituto Affari Internazionali Working Papers 10-21..

²⁵³ Author’s interview with Erhan Elçin, op. cit..

making and implementing actor in North Cyprus. The dilemma stems from the fact that “[o]n the one hand, it cannot deny basic democratic rights to the Turkish Cypriots who are also European citizens, on the other its own regulations prevent these rights from being put into practice” (Brus, Akgün et al. 2008: 7).

6.3 Conclusion

In this chapter, the EU’s normative framework and related policy tools in justifying and promoting the Union’s conflict resolution engagement vis-à-vis the Turkish Cypriot side have been discussed as a part of the EU template of the legitimization process. Similar to Kosovo, the EU’s approach is informed by the international response to the on-going dispute. In accordance with the UN position, the EU advocated enlargement to become a catalyser for a reunification. Looking at the process today, many are convinced that the EU’s intention to become a catalyser in a comprehensive settlement did not occur due to the wrong calculations and the EU’s over-reliance on the Greek Cypriot leadership’s goodwill (Tocci 2004; Ker-Lindsay, Faustmann et al. 2011). However, its engagement in the resolution of Cyprus conflict continues since the Republic of Cyprus is a member state as a divided country.

The chapter has demonstrated that the EU’s normative framework have considerably shifted after 2004 referendum. Before the referendum, there were alternative voices inside the Union. Whilst the Commission promoted a balanced solution trying to address the concerns of local groups, the EP supported the idea that unconditional membership should be offered to the recognised party to shame and ‘punish’ the uncooperative behaviour of North Cyprus and the Council sought to balance the interests of Greece, Turkey and the RoC through package deals.

In the aftermath of the referendum, the normative support for Turkish Cypriot community has allowed a positive engagement with North Cyprus independent of the RoC and Turkey, at least at the discursive level. In order to justify this shift, the EU claims that its aim is not to depart from internationally-accepted practice of non-recognition but to reward the Turkish Cypriot willingness for reunification and to facilitate integrating Turkish Cypriots into the EU through alternative channels.

The normative shift has allowed the EU to develop tangible instruments that would facilitate economic development and lift of isolations on the Turkish Cypriot community. Looking at the EU as a policy actor on the ground, direct EU involvement in institution-

building and democratisation is less emphasised in North Cyprus compared to Kosovo²⁵⁴. The EU opts for intensified relations with non-governmental bodies and the opposition and semi-institutionalised relations with the TRNC government. Financial aid and trade measures (the FAR and DTR) aim at bringing economic development and facilitating legal integration of the TRNC into EU law. In order to justify these new policy tools, the Commission argues that there is enough legal basis (Protocol 10) for generating direct relations with the TRNC authorities without recognising a second authority on the island.

The analysis of the EU template has demonstrated that the EU has constructed a set of justifications on the basis of the changing dynamics of the conflict resolution engagement of the EU without violating international principles (non-recognition and territorial integrity) in order to assert itself as an authority to contribute to the Cyprus conflict resolution and generate cooperation from Turkish Cypriots. The next chapter looks into the local template through various local actors in North Cyprus and assesses local support for the EU framework and policies to complete the analysis of the legitimisation cycle.

²⁵⁴ However, there has been a continuous emphasis on better quality of democracy, rights and participation of all communities on the island as an integral part of the membership process.

Chapter Seven – Local Groups in North Cyprus

“You can be a citizen or you can be stateless, but it is difficult to imagine being a border.”

*André Green*²⁵⁵

7.1 Introduction

This chapter aims to analyse the local actor attitudes, strategies and power to support, resist or regenerate the EU’s agenda on the ground through the four-path legitimisation framework. Besides examining the arguments and perceptions of the locals that authorise, and normalise the EU, it also evaluates how legitimisation process which is shaped through the complex relationship between multiple local actors and different EU justifications and policies has affected the conflict resolution process. The chapter follows the assumption that the local stakeholders in North Cyprus have power to resist to or adapt the EU’s normative framework, policy-making, and implementing.

		Normative Sources	Empirical Sources
Diffuse Support		Legitimation through norms/principles <ul style="list-style-type: none">• European role model• International law: territorial integrity and fundamental rights of individuals• Moral responsibility	Legitimation through local ideas/ideologies <ul style="list-style-type: none">• Local resistance and legal-political reasoning• Civic movement and leadership change
		Legitimation through procedural/participatory qualities <ul style="list-style-type: none">• Direct relations in post-referendum phase, ad hoc groups for participation	Legitimation through performance <ul style="list-style-type: none">• Green Line and Financial Aid Regulations• Lifting Turkish Cypriot isolations

The table above summarises the EU’s engagement in Cyprus along the four pathways of legitimisation in conflict resolution. Recalling the discussion in Part I, the normative sources of legitimisation are related to pre-defined criteria such as concurrence with international

²⁵⁵ Cited in Balibar, E. (2002). *Politics and the other scene*. London, Verso., p. 75.

law and practice, procedural qualities of implementing policies, such as local participation, accountability and transparency of the EU actors on the ground. Empirical sources refer to the beliefs and perceptions of the local stakeholders. While diffuse support is directed to the EU as a whole (EU framework), specific support is generated for the EU's ground policies and representatives.

In the next four sections, the chapter analyses the each legitimation pathway by assessing local actions, norms and values that define their relations with the EU framework and its specific policies/representatives. The analysis offered in this chapter is exclusively based on the Turkish Cypriot local groups due to the difficulties in conducting fieldwork in the Greek Cypriot area by this author. This considerably limits the findings of the chapter in terms of understanding the entire local agency's impact on the EU conflict resolution process in Cyprus. However, an entire focus on the northern part of the island reveals differences among the Turkish Cypriot local actors in terms of ideology and perceptions of conflict and conflict resolution in detail, and their varying power in granting support, reinterpreting or challenging the EU, and pressing for further action. The last section of the chapter analyses how the overall legitimation process affects conflict resolution in Cyprus.

7.2 Legitimation through Norms/Principles

As defined in Chapter Three, legitimation through norms/principles depends not only on the EU's rhetorical subscription to the international law but also on the consistency of its normative framework in engaging with a specific conflict case. The previous chapter demonstrated that in the pre-accession years, the EU relied on multiple normative claims in Cyprus derived from internationally accepted principle of territorial integrity of the RoC, moral responsibility of the EU to promote the basic rights of Cypriots, the EU's own principles and the example of the European integration for a fair and balanced solution on the island. While justifying its engagement through accepting the membership application, the EU emphasised that its established position on the TRNC's independence was consistent with the UN decisions; and, since 'the status quo was at odds with the international law', the EU argued that supporting the UN efforts would be possible by applying enlargement conditionality.

However, the claim that eventual membership would take both sides' co-demands into equal consideration; and, thereby bring a fair solution was not consistently promoted. The blaming discourse dominant within the EP towards the Turkish Cypriot side and the

political bargains within the Council overshadowed the Commission's normative approach towards the Turkish Cypriot local groups, especially during the 1990s. Until the 'normative turn' in the EU's conflict resolution framework in the aftermath of the referendum, these different (and sometimes incompatible) approaches existed side-by-side within the EU.

The inconsistencies in the EU's approach towards Turkish Cypriots were perceived as deliberate ignorance of the co-demands and expectations of Turkish Cypriots by the local leadership. Moreover, as discussed in the previous chapter, Greece slowly achieved to erode conditionality for membership throughout 1990s by actively using intergovernmental decision-making powers in the Council and by openly threatening to veto the next enlargement round. Whilst the political bargains between Greece, Turkey and the EU overshadowed the normative agenda of the Commission, moral responsibilities attributed to the EU by the EP slowly degraded the credibility of the economic incentives and the EU's power of attraction for the Turkish Cypriot side.

The effect of the lack of consistent normative framework is pivotal in explaining the low credibility of the EU's promotion of membership as a fair and balanced solution for Turkish Cypriots throughout 1990s. Although the EU followed the international practice and supported the UN peace process, and persistently emphasised that the Union would like to see credible efforts for a settlement on both sides, the political bargains and its failure to 'maintain a certain degree of pressure' on the Greek Cypriot government indirectly empowered the nationalist leadership in TRNC (Barkey 2003). The Turkish Cypriot leadership interpreted the inconsistencies, and especially the EP and the Council's attitude as hostile and favouring the Greek Cypriot side.

As moral responsibility towards Greek Cypriots was more pronounced within the EP circles, in the view of the Turkish Cypriot leadership, the EU displayed a partisan opinion of the basic historical facts of the island (such as the inter-ethnic conflict which mostly harmed the minority Turkish Cypriots throughout 1960s and the subsequent isolation of Turkish Cypriots from the common state institutions as well as the long-lasting division and the reality of separate state structures in the north). The Parliament's alternative normative framing of the Cyprus issue adopted a punitive discourse towards Turkey and the Turkish Cypriot side and strengthened the local opinion that the EU was a pro-Greek/Greek Cypriot organisation and lacked the neutrality and insight of the UN. For instance, Ertuğrul Hasipoğlu, an MP in the TRNC Assembly from the right-wing National Unity Party (UBP) describes the EU's attitude throughout 1990s as "openly siding" with

the Greek Cypriot claims and as a demonstration of the EU's "lack of understanding of the fragile balance between the two communities as well as a lack of historical understanding of the issue"²⁵⁶.

The absence of a credible normative framework dramatically affected the conflict resolution process (both the EU enlargement and the parallel UN peace process). The nationalist leadership has developed its own legal, political and counter-normative framework by skilfully utilising the normative inconsistencies in the EU's approach to its advantage in order to seek justification for its aversion from a UN solution. In doing so, the nationalist leadership not only aimed to dismiss international shaming but also oppressed the pro-resolution/pro-reunification groups at home as the collaborators of the EU to consolidate its own power.

First, the Turkish Cypriot political elite immediately reacted to the EU's decision which accepted the membership application of the Greek Cypriot government on behalf of the entire island through a legal argument. The leadership of Rauf Denktaş's and the National Unity Party (UBP) government claimed that the 1959 Zurich Agreement, which had set up a common state after the British colonial rule, outlaws Cyprus's membership in any international organisation which Turkey and Greece are not members²⁵⁷. In further support of the legal argument, they asserted that "according to the dictates of international law and regional peace and stability, Cyprus can only become a full member of the EU after a settlement and once Turkey has become a member as well"²⁵⁸. Although the EU responded to this criticism by stating that the Union is not a traditional international organisation and thereby, this principle did not apply to the membership in the EU, the Turkish Cypriot leadership insisted to promote the legal argument (Bahcheli 2001). The basis of this argument was the perception of threat which was mostly due to the Greece's ability as a member state to change the initial cautious stance of Brussels and Turkey's relative lack of influence on EU decisions as the protector of the Turkish Cypriot side (Tocci 2004).

Second, the political leadership under Denktaş and the governing party UBP also adopted a counter-normative argument to challenge the EU's active engagement in conflict resolution throughout 1990s. Turkish Cypriot governing circles consistently argued that

²⁵⁶ Author's interview, Ertuğrul Hasipoğlu, Former Minister of Foreign Affairs of TRNC and Undersecretary of UBP, February 2012, Lefkoşa/Nicosia.

²⁵⁷ TRNC and Turkey (1995). Joint Declaration by the President of Turkey and the President of the Turkish republic of Northern Cyprus. Ankara. 28 December 1995.

²⁵⁸ TRNC and Turkey (1997). Turkey - TRNC Joint Statement. Ankara. 4 July 1997.

the EU's use of membership prospect as a conflict resolution tool would mean imposed reunification of the island under Greek dominance and as a return to pre-1974 events (Duzgun 2008). The TRNC authorities explicitly stated that 'the Greek Cypriot side has no other interest than entering the European Union as a second Greek state and thus achieving an indirect integration with Greece, without having to seek a settlement with the Turkish side in Cyprus'²⁵⁹. In this sense, Turkish Cypriot leadership claimed that EU membership for Cyprus would mean enosis (unification with Greece) through the 'back door' (Diez 2002) which had denied the separate existence of a Turkish Cypriot identity on the island throughout 1960s-70s. In the view of the TRNC leadership, the EU was obliged to acknowledge the contextual and historical factors on the island as well as the legitimate interests and rights of the Turkish Cypriot community. For example, Denktaş argued that

the Greek Cypriot party, encouraged particularly by the European Union's one-sided and misplaced approach to the issue, turned its back on the concept of a bi-zonal settlement. The Greek Cypriot side started talking about a "German-style federation" in which there could be no limits or regulations on the freedom of movement, settlement and the right to property. This would make a mockery of the principle of bi-zonality, which has since evolved into a two-state situation, and is a clear recipe for a return to the past, and, ultimately, for disaster. It should be reckoned that Germany was one nation divided along ideological lines during the Cold War, whereas in Cyprus there has always been two peoples belonging to two different nations''²⁶⁰.

Similarly, in the memorandum addressed to the Italian Presidency of the European Council, Turkish Cypriot leadership condemned the application of the RoC on behalf of the entire island and reminded the bi-communal character of the island and called the EU to recognise the unique situation of the island (Hakki 2007). In this initial response, it was clear that the EU was still seen as a peripheral actor to the 'realities of Cyprus' and Turkish Cypriot side wanted to 'inform the EU about the Greek and Greek Cypriot 'intentions'' of the membership application.

²⁵⁹ TRNC and Turkey (1997). "Turkey-TRNC Joint Declaration January 20, 1997."

²⁶⁰ Cited in TRNC Public Relations Office web site, no date, Available at www.trncinfo.com [accessed at 20 March 2012].

However, with the gradual removal of the conditionality on the political settlement before accession, nationalists in the north directed their normative/moral challenge to the EU. The Union was criticised for lacking an understanding of the historical course of the conflict on the island as well as ‘the motivation’ of the Greek Cypriots. For instance, Denktaş mentioned his lack of trust for the EU during an interview by stating that “the EU considers us just a mere minority in the north who live under occupation. By acknowledging Greek Cypriot administration as the representative of the island the EU has approved its view of Turkish Cypriots”²⁶¹. This argument was supported by the claim that there were two state systems and economies on the island after decades of separation (Bicak 1997). Similarly, the then Prime Minister Derviş Eroğlu noted that “we are not against entry into the EU. We are against the EU entering Cyprus against our will”²⁶². In spite of the Commission’s statements that membership would mean increased security and prosperity for both sides, the political leadership turned increasingly against the EU’s decision to open up accession negotiations without a political settlement on the island. At the Association Council meeting with Turkey, North Cyprus government declared that

the European Union is making *a historic mistake* by destroying the very basis of the existence of two peoples with equal, political and legal status, on which the independence of the island is based upon. By leading to the virtual integration of South Cyprus with Greece, the European Union will bear the heavy responsibility of a permanent division of the island. The European Union *does not have the right* to make *one-sided decisions* and to create obligations regarding the future of the island of Cyprus and to destroy the existing balance between Turkey and Greece in the region. Turkey and the TRNC will not accept the legal, political and economic consequences that may arise for the island of Cyprus as a result of the EU's opening of accession negotiations with the Greek Cypriot administration²⁶³.

Against the background of political bargains and the Greek threat of veto, the EU’s emphasis on economic benefits of membership as a reunified country for the Turkish Cypriot community was also challenged as immoral by the nationalist leadership. The

²⁶¹ Cyprus Observer, 19.01.2007.

²⁶² Kıbrıs, 09.06.1997.

²⁶³ Declaration by the Association Council between Turkey and TRNC, 31 March 1998 available at Turkey Ministry of Foreign Affairs <http://www.mfa.gov.tr/default.en.mfa> [accessed 20 March 2010], emphasis added.

TRNC leadership did not struggle to consolidate its argument by emphasising the priority of preserving distinct Turkish identity and security on the island and the inconsistencies between the words and deeds of the EU. The hardliners condemned the EU's offer of economic benefits as 'a bribe' to convince Turkish Cypriots to submit themselves to the Greek Cypriot domination (Tocci 2006; Ramming 2008). In order to persuade the Turkish Cypriot public, the TRNC leadership argued that economic incentives offered to Turkish Cypriots intended to 'buy Turkish Cypriots out' on the island. The leadership claimed that if the EU had really desired to contribute to overcoming the disparities between Turkish and Greek Cypriots, it would not have introduced the ban on the preferential treatment of Turkish Cypriot products in 1994²⁶⁴. Overall as the UN Secretary General noted in his 2003 Report,

[The TRNC leadership] seemed to perceive the approaching date of European Union accession and the European Union's strong preference for welcoming a united Cyprus not as an opportunity to achieve a settlement on a favourable basis and, in the process, pave the way for Turkey's aspirations regarding the European Union, but as a trap and a threat²⁶⁵.

Third, the local leadership developed political resistance in two forms: a radicalised attitude towards UN negotiations, and economic, military and political integration with Turkey in order to balance the EU-Greek Cypriot integration. With the EU's decisions in the 1997 Luxembourg and the 1999 Helsinki Summits, the RoC's final membership was divorced from a decisive settlement on the island as a precondition. Especially engendered by what is perceived as 'unconditional favouring of the Greek Cypriot side', the leadership in the north started to pursue a marginal and isolationist policy drifting away from the basic UN parameters of bi-zonal and bi-communal federation towards a novel strategy of openly demanding international recognition. During the UN shuttle talks, Denktaş

²⁶⁴ Volkan, 03,05,1998. This dispute dates back to 1994 Greek Cypriot government's decision to apply to the ECJ for a review of the preferential treatment of the Turkish Cypriot products. Until 1994, North Cyprus continued to enjoy the preferential treatment under the Customs Union Agreement signed with the Republic of Cyprus. In 1994, the Turkish Cypriot authorities decided to change their Republic of Cyprus export authorisation stamps with the TRNC ones. As a result, the Court ruled that 'the certificates for preferential treatment of goods can only be issued by authorities with which the EC has signed an agreement, which is not the case with the non-recognised "TRNC"' ECJ (1994). The Queen v Minister of Agriculture, Fisheries and Food, ex parte S. P. Anastasiou (Pissouri) Ltd and others, European Court of Justice, 5 July 1994, Commission (2000). Regular Report from the Commission on Cyprus's Progress towards Accession..

²⁶⁵ UNSG (1 April 2003). Report of the Secretary-General on his mission of good offices in Cyprus. New York, UN. S/2003/398.

demanded political equality and “acknowledgment of the existence of two fully functioning democratic States on the island” as the basis of the negotiations²⁶⁶. The change of attitude on the Turkish Cypriot side was a result of the Luxembourg Council decisions of the EU; as noted by the Secretary General in 1997 on the direct talks in Glion:

At the opening, the Turkish Cypriot leader informed my Special Adviser that, in the light of the publication by the European Union of a document entitled "Agenda 2000", and pending clarification of some of the statements contained in that document, he would participate in further discussions with the Greek Cypriot leader and with my Special Adviser but would not be able to adopt any formal understandings or agreements²⁶⁷.

Following the start of the accession negotiations with the RoC in March 1998, the tone was hardened further towards the EU. Remarkably, Denktaş blamed the EU as destroying the previously agreed UN parameters by opening up negotiations with the Greek Cypriot government; therefore, leaving no other choice to the Turkish Cypriots to demand international recognition. The previous discourse (at least at rhetorical level) that was supportive of a bi-zonal and bi-communal federation between the two communities was completely replaced by a new discourse promoting the TRNC's right to take part in the international community “as a sovereign and democratic state”²⁶⁸. As the German example of reunification became popular in Brussels, the Turkish Cypriot side started to talk about a velvet divorce similar to Czechoslovakia as an alternative to the Greek and EU suggestion of the German model (Tocci 2004).

Moreover, the depiction of the EU as a pro-Greek Cypriot actor provided local politicians with an instrument to impose isolationist policies at home by preventing or limiting bi-communal events between the Turkish and Greek Cypriot civil society organisations and pro-unification groups' contacts with the EU. For instance, journalists or civil society activists from the EU countries who visited North Cyprus to conduct talks with non-governmental organisations were frequently expelled (Beyatli 2011: 136). After

²⁶⁶ UNSG (16 June 1998). Report of the Secretary General on his Mission of Good Offices in Cyprus. New York, UN. S/1998/518.

²⁶⁷ UNSG (12 December 1997). Report of the Secretary General on his Mission of Good Offices in Cyprus. New York, UN. S/1997/973.

²⁶⁸ Declaration by the Association Council between Turkey and TRNC, 31 March 1998 available at Turkey Ministry of Foreign Affairs <http://www.mfa.gov.tr/default.en.mfa> [accessed 20 March 2010].

1997, the TRNC leadership unilaterally rejected all official contacts with the EU representatives and conducted an anti-EU campaign banning all EU information activities and communications between the TRNC authorities and the EU (Tocci 2004). As a result, the EU's normative framework was discredited and a perception of threat from the EU stalled any potential constructive cooperation between non-state local groups and the EU.

The Turkish Cypriot leadership's second political move was to strengthen ties with Turkey as a counter-measure to the Greek Cypriot-EU 'integration' which was perceived as against the Turkish Cypriot presence and identity on the island. In 1997, a joint declaration between Turkey and the TRNC noted that

[t]he Turkish side will consider the start of accession negotiations between the Greek Cypriot administration and the EU, based on the unilateral application of the Greek Cypriot side for full membership in contravention of international law, as the complete abolition of the framework and parameters for a solution which have emerged during the negotiating process in Cyprus. *Each and every unilateral step to be taken by the Greek Cypriot Administration towards the EU membership will accelerate the integration process between Turkey and the Turkish Republic of Northern Cyprus*²⁶⁹

Denktaş received unhindered support from Turkey to realise an economic and political integration between the TRNC and Turkey. In 1995, a joint economic zone was established. Subsequently, agricultural bank credits were lent to Turkish Cypriots under the same conditions as Turkish citizens, and the same economic and social rights of the Turkish citizens were offered to Turkish Cypriots. It was also agreed that the common economic area between the two would include free flow of goods, services, capital and investment²⁷⁰. Turkey also started infrastructure build-up in the northern part of the island (Tocci 2004). In 1997, economic unification was extended to political and defence areas. For instance, North Cyprus representatives were included in the ranks of Turkish delegations in third countries. Turkey and the TRNC declared that two entities had a common will to integrate more as a response to the intensified the EU-RoC relations and the new military alliance -named 'defence dogma'- between Greece and the Greek Cypriot

²⁶⁹ Turkey-TRNC Joint Declaration 20 January 1997 available at Turkey Ministry of Foreign Affairs <http://www.mfa.gov.tr/default.en.mfa> [accessed 20 March 2010].

²⁷⁰ Joint Statement By The Co-Chairman Of The Turkey-TRNC Association Council State Minister Şükrü Sina Gürel And TRNC Minister Of Foreign Affairs Taner Etkin - November 14, 1998.

government. The TRNC and Turkey declared joint defence in case of a common military threat²⁷¹.

The economic, political and military cooperation between the TRNC and Turkey was justified as a defence against the ‘premeditated exclusion’ of Turkish Cypriot concerns from the EU membership process and excluding Turkey from the potential members’ list in the 1997 Luxembourg Council. The joint declaration between Turkey and the TRNC clearly demonstrated how the nationalist leadership of North Cyprus utilised the lift of conditionality for the RoC and the start of the accession negotiations to promote the goal of integration with Turkey to the detriment of the parallel UN peace process. The joint statement of the Association Council meeting states:

The green light given by the EU ... constitutes a historic error which has a destructive effect on the negotiating process²⁷².

It is worth noting that some civil organisations and associations aligned themselves with the Turkish Cypriot leadership and organised their own campaign for the rejection of EU membership and reunification. For instance, the Turkish Cypriot Public Workers’ Trade Union declared that the EU membership would look like “a forced catholic marriage in which partners have difficulties of getting on but divorce is not possible”²⁷³. As a counter reaction to the EU argument of being a catalyser, some local newspapers often claimed that the EU could not generate a solution by ignoring the realities on the ground, i.e. decades of separate existence on the island²⁷⁴. The EU’s policy in Cyprus was claimed to merely “constitute a package of concessions that aims at blocking Turkey’s own membership”²⁷⁵. Throughout the referendum campaign no-voters continued their efforts to mobilise people by claiming that “‘no’ in the referendum means to protect independence,

²⁷¹ Military build-up undertaken by Greek Cypriot side by deploying missiles and a Joint defence Doctrine between Greece and the RoC triggered reactions from the TRNC and Turkey. In 1994, the UNSG noted the increasing military personnel and arms build-up on both sides of the island maintained by Turkey and Greece. See UNSG (7 June 1994). Report of the Secretary General on his Mission of Good Offices in Cyprus. New York, UN. S/1994/680.

²⁷² TRNC and Turkey (1997). "Turkey-TRNC Joint Declaration January 20, 1997."

²⁷³ Kıbrıs, December 2002, Kamu-İş Declaration “Cözüme evet, bu şekliyle Plana hayır!” [Yes to solution, No to the plan in its this form]

²⁷⁴ Kıbrıs, 09.06.1999, “Kıbrıs’ta çözüm gerçeklere dayalı bir uzlaşma ile olabilir” [Solution in Cyprus can only be possible through reconciliation based on realities].

²⁷⁵ Ibid.

freedom and sovereignty”²⁷⁶. Some newspapers launched an anti-EU campaign to shape the public opinion claiming that if the EU accession would happen through the Annan Plan, North Cyprus would become a Greek Cypriot Republic in the long term. In a commentary in daily Halkın Sesi, the author asked “when Greek Cypriots will demand the territory, property and power under Annan proposals, who would save them [the proponents of the reunification] from the tyranny of Greek Cypriot majority? Verheugen? Karen Fogg?”²⁷⁷

According to Tocci (2004), the EU failed to deny these misgivings which were a result of the anti-EU campaign of the nationalist leadership and local press. Moreover, the EU’s emphasis on the significance of the recognised statehood of the RoC played a considerable role in shaping the local resistance to the EU’s conflict resolution agenda in the 1990s. The EU could not convince the majority of the Turkish Cypriot public about their political and physical security under a reunified Cyprus as an EU member. Moreover, the Commission’s normative framework could not address Turkish Cypriot fears by mentioning the potential ‘rights, historic wrongs and duties’, since the normative argument failed to outline how the EU would prevent the richer and larger Greek Cypriot side from swallowing the poorer and smaller Turkish Cypriot community in case of a reunification (Brewin 2000a). As a result, the nationalist ideology and the anti-EU campaign generated widespread support from the public as seen in the 1998 general elections and the 2000 presidential elections which brought landslide victory for the pro-independence UBP and for Denktaş.

The analysis of the legitimization path through the study of the norms and principles that constitute the EU framework reveals that the nationalist leadership in North Cyprus skilfully made use of the lack of a consistent normative framework and the existence of political bargains to consolidate its own nationalist agenda for independence and closer ties with Turkey. The initial perception of threat stemming from the EU’s involvement as a pro-Greek Cypriot actor was utilised by the then nationalist leaders to consolidate resistance to UN peacebuilding efforts and their domestic authority throughout 1990s until the 2003 general elections in North Cyprus. The EU framework remained akin to subordination under the Greek Cypriot majority in a reunified EU member-state. The dominance of anti-EU campaign of the then political leadership continued to determine

²⁷⁶ Halkın Sesi, 2.04.2004, İsmet Kotak, “Hayir, devletine, bağımsızlık ve özgürlüğüne sahip çıkmaktır” [No means to protect one’s state, independence and freedom]

²⁷⁷ Halkın Sesi, 02.04.2004, Osman Güvenir, “Bu gerçek olayı herkes okusun” [Everybody should read this real event]

North Cyprus's relations with the EU. The Greek Cypriot progress in the EU membership process indirectly served to the nationalist local leaders' to evidently manipulate the EU framework by several strategies to convince the Turkish Cypriot public about the "an attempt at the encirclement of Turkey and the Turkish Republic of Northern Cyprus by the hostile forces" (TRNC Min. of Foreign Aff. cited in Kaliber 2005: 326).

Contrary to what the Union aimed through delinking a final settlement on the island and membership conditionality, the North Cyprus leadership perceived the gradual erosion of conditionality as an evident hostility towards the Turkish Cypriot community. The normative inconsistencies of the EU discourse were utilised by hardliners in North Cyprus to prevent public support for the EU and clinch their ideological monopoly in North Cyprus further throughout 1990s. In the end, the lack of a consistent normative framework not only limited the EU's intended impact but also contributed into the escalation of the division throughout the 1990s, thanks to the increasing control of Turkey on the TRNC.

7.3 Legitimation through Local Ideas/Ideologies

This section addresses legitimation through local ideas/ideologies by looking at the local re-interpretation and adaptation of the EU as a framework. The Turkish Cypriot hardliners exploited the lack of a consistent EU framework for conflict resolution to promote their own agenda of seeking independence and closer ties with Turkey in the pre-accession years. Legitimation through local ideas/ideologies is concerned with how various local actors can also normatively interpret the EU framework to adapt or offer alternatives to it besides the local leadership's overall discarding on strategic and ideological grounds. This section looks into the reinterpretation of the EU's normative framework by the Turkish Cypriot civil society and the political opposition with an aim to promote their own agenda and empower themselves domestically vis-à-vis the traditional political elites. In this sense, legitimation through local ideas/ideologies refers to how some groups can inscribe a new meaning into the EU framework by tailoring it to address what they perceive as the root causes of the on-going conflict and empower a conflict resolution agenda in line with their ideas and priorities on the ground.

The process of legitimation through local ideas/ideologies cannot be understood without looking at the historical and ideological differences between various local groups in North Cyprus. Contrary to the ruling elite, the political opposition and civil society have

always emphasised the existence of a distinct Turkish Cypriot identity different from the mainland Turkish identity and believed in the possibility of constructing a common Cypriotness through coexistence and reconciliation with the Greek Cypriot community (Ramm 2006). These groups, mostly led by the Turkish Cypriot civil society and activists, have been historically labelled as ‘pro-solution’ groups (i.e. pro-reunification under the terms of a bi-communal bi-zonal federation) on the island (Anastasiou 2008).

In the view of these civil society organisations and the political opposition, the current dominance of the nationalist leadership was the result of the unhindered support they receive from the governments and military chiefs in Ankara (see Kaliber 2005 on this support). Contrary to the pro-independence leadership, the guardian role of Turkey created an increasing discontent among these pro-reconciliation civil society groups and the opposition in North Cyprus. In time, the relations with Turkey have become a symbol of Turkish Cypriots’ subordination and the socio-psychological acceptance of Turkey’s paternalistic dominance for the pro-solution groups in North Cyprus (Bahcheli 2004; Bryant and Yakinthou 2012). As a result, the majority of civil society organisations and trade unions have long expressed dissatisfaction with the Turkish military presence on the island as a hindrance for a final settlement and democratisation of the TRNC. Their real aim has been to struggle for transition of the political scene of North Cyprus into a more democratic and less paternalistic one. As stated by Beyatlı (2011: 136-7), “[b]eing pro-European, pro-solution in the northern part of Cyprus was perceived to be against the state and those committing that sin-the so-called ‘traitors’- had a very difficult time”. For this reason, the nationalist regime constantly sought to oppress the alternative voices which were critical of Denktaş’s independence policy as seen in the example of the anti-EU campaign after 1997.

Despite preventions, the Turkish Cypriot non-governmental bodies kept in touch with their Greek Cypriot counterparts and continued to facilitate the civilian use of the buffer zone for bi-communal events²⁷⁸. Civil society organisations and some committed activists have generated the most powerful local conflict resolution initiatives to keep a narrow frame of dialogue with the ‘other side’ which was strictly against the mainstream state ideology in North Cyprus (Anastasiou 2008). Nevertheless, the pro-reconciliation opposition and civil society remained as a marginal movement in the TRNC and never become a real alternative to the nationalist party UBP for Turkish Cypriots until the EU

²⁷⁸ UNSG (8 June 1999). Report of the Secretary General on his Mission of Good Offices in Cyprus. New York, UN. S/1999/657.

has become one of the main actors in the conflict resolution process by promising membership through reunification²⁷⁹.

The EU's involvement in the conflict resolution process has provided the pro-solution groups with an unprecedented opportunity to assert themselves as a unified novel political force in North Cyprus. The local civil society which had been forced to remain apolitical and survive in isolation increasingly became the centre of the political action in pressing for change in the mainstream ideology in favour of EU membership starting from the early 2000s. The movement grew to embrace the opposition parties, business groups and finally the masses, and turned to become a crucial alternative challenging the Turkish Cypriot ruling elites' anti-EU policy.

The reason for the unprecedented civic movement in the TRNC in favour of reconciliation and EU membership is the ability of the civil society and the political opposition in utilising their long-term goal in reference to the EU framework very efficiently in order to deliver their message to the masses in North Cyprus. When they incorporated an EU reference into their agenda, civil society started to attract mass support. For critical local groups, the EU represented an opportunity to return Cyprus to Cypriots, both Greek and Turkish. More importantly, the manifest utilisation of the EU framework by the civil society and political opposition groups served to counter both Turkification (through living as an unrecognised state dependent on Turkey) and Hellenisation (reunification under the terms of the Greek Cypriot majority) of the distinct Turkish Cypriot identity on the island. Reunification under the EU became a real alternative that gives the pro-solution groups an opportunity to openly defend a common Cypriotness and generate arguments to console Turkish Cypriots' political concerns (Kızılyürek 2005).

The support for the EU framework as a way to assert the distinct Turkish Cypriot identity on the island was widely facilitated by civil society activists. The EU's commitment to ensure representation of Turkish Cypriots in regional or communal groups inside the Union helped to invoke an agenda of identity transformation from Turkishness to a common Cypriotness. The EU citizenship was accepted as a way to restore Turkish Cypriots' unique Cypriot identity which had been either diluted or tainted by the 'motherland Turkish' identity or rejected and seized by the Greek majority in the past. For instance, in April 2004, in the daily '*Afrika*', which often expressed critical views of both

²⁷⁹ Author's interview, Bülent Kanol, Management Centre February 2012, Nicosia.

then leadership and Turkey's continuous interventions in domestic affairs of the TRNC, the editor Şener Levent wrote in his column

I have a dream to tell. Listen to me! While Beethoven's ninth symphony plays in the background, I pass through our most lively dead zone [mentioning the UN buffer zone] and you and I, the Turkish and the Greek Cypriot meet each other²⁸⁰.

Similarly, Ali Bizden's description of the common Cypriot identity points out that the objective of supporting the EU framework of conflict resolution was to end the culture of deferment that looms large in North Cyprus and to assert the distinct Turkish Cypriotness rejecting the majoritarian Turkish and Greek Cypriot identities. In Bizden's (1997: 50, author's translation) words:

The EU option seems like the only project that can accommodate Cypriotness at the same and equal level [for both communities]. In this sense, being a Cypriot in an EU member Cyprus is more desirable than being a Turkish Cypriot and a Greek Cypriot in a divided Cyprus and much more possible than a [non-EU] federal Cyprus. A liberating/pluralist, radically democratic Europeanness as a supra-national identity is a serious option for both Turkish Cypriots and Greek Cypriots. However, the fact that European supra-national identity is seen as a favour and blessing by the groups who try to make Europeanness a domineering discourse in North Cyprus is a sign that the ineptitude [and] the tendency of deferment are still prevailing [in North Cyprus]. ... The only way to overcome the [pressures of] ineptitude and deferment in North Cyprus is to redefine the problem -by leaving sovereignty and ethnocentric parameters aside- through reference to one Cyprus without a north-south division on the bases of emancipation and a novel universal-local synthesis.

The author is equally against the unconditional acceptance of Europeanness and perceives it as framework to develop common Cypriotness. In this sense, the EU framework has been adapted by the so-called pro-solution groups to feed the ideological doubts over the long-assumed kinship between Turkey and North Cyprus and the state ideology of

²⁸⁰ Afrika, 1 April 2004, Şener Levent. 'Rüya' [Dream].

promoting independence and Turkish identity (instead of a Turkish Cypriot identity) in North Cyprus. According to these groups, EU membership would also mean political status that the nationalist leadership had already tried to achieve (and failed) by seeking independence and deferring to Turkey and Turkish identity.

Moreover, by adapting the framework of the EU as a window of opportunity for their own vision of changing the domestic political culture, pro-reconciliation non-governmental groups claimed that EU membership would make North Cyprus more democratic and politically and economically independent from Turkey's influence. For example, the local daily *Afrika*'s editor Şener Levent's reflections on the EU demonstrate how the integration framework could serve to reach a more democratic and developed country that would serve the aim of both communities:

The EU [norms and values] cannot be an ideology but it is an opportunity to get Cyprus out of the current abyss. Turkish Cypriots 'are trying to change the daily life for better, they are wearied of the isolations and Denktaş, they are in search of law, justice and wellbeing', and Greek Cypriots 'want to get rid of the occupation'. Then, the only way to find solution is to attach Cyprus to the EU. If there is no EU, there is no solution. That is why we want to become EU member because –just because- we cannot find any other way to get ourselves out of the current situation²⁸¹.

Reunification under the terms of the Annan Plan and simultaneous membership into the EU is accepted as the only chance to break the authoritarian rule and the Turkish influence. Similarly, Ümit İnataçlı, a columnist from the daily *Afrika*, wrote that 'the [Annan] Plan which is supposedly a peace plan brings many conditions that would prevent a true reconciliation between the two communities in Cyprus'²⁸². Nevertheless, the author called the readers to vote in favour of the Plan claiming the other scenario of living under the 'Denktaş regime' would be worse, since under the current conditions, the Annan Plan and EU membership offered the best option for Turkish Cypriots²⁸³. Another columnist declared that he would say 'yes' to the Annan Plan 'for self-rule and for a better life in the

²⁸¹ *Afrika*, 1 April 2004, Sener Levent, 'Rüya' [Dream].

²⁸² *Afrika*, 7.04.2004, Umit İnataçlı, 'Ya bu gamayı, ya bu gılını'

²⁸³ *Afrika*, 7.04.2004, Ali Osman, 'Bıçak Boynumda'

EU²⁸⁴. Yet another commentary in Halkın Sesi stated that the only way to correct the EU mistake that let Greek Cypriots into the EU was to vote in favour of the Annan Plan in order to give Turkish Cypriots their deserved place in the EU as an equal constituent community in Cyprus²⁸⁵.

These views that were expressed widely in dailies demonstrate that the EU framework was not blindly supported, but increasingly seen as the best option available for Turkish Cypriots, first to protect the distinct Turkish Cypriot identity from the mainland Turkish and Greek Cypriots and second, to live under a democratic regime by curbing the influence of Turkey and monopoly of the traditional political leadership. Given the already existing discontent with the socio-economic and political conditions of the Turkish Cypriot society, the EU framework was both normativised and rationalised as the most efficient and closest way to break the impasse that Turkish Cypriots were forced to live for decades. In short, the EU framework “provided the opposition and the civil society in North Cyprus with reference points to legitimise conflict-diminishing policies without the elite having significant domestic political costs” (Adamides and Constantinou 2012: 249).

By the late 1990s and early 2000s, the efforts of the civil society and pro-solution opposition started to attract mass support from the Turkish Cypriot public and this support culminated into pro-EU and anti-government demonstrations. In 2000, for the first time, meetings between political party representatives from both sides took place with the participation of 13,000 people -a considerable number for Cyprus- from both sides²⁸⁶. With the involvement of the opposition parties—especially the Turkish Cypriot left, the Republican Turkish Party (CTP), the Communal Liberation Party (TKP), the Patriotic Unity Movement (YBH)-, the pro-solution/pro-EU voices for the first time reached masses in the north and achieved to become a ‘political variable’ in the Cyprus conflict.

The timing of mass support for the civil society and opposition’s vision is worth noting to understand how local groups can utilise the EU framework to demand change on the ground. When the first demonstration took place under ‘This Country is Ours!’ platform, contrary to the common belief, it was not a demonstration to support EU membership or Annan Plan *per se*. The role of the 1999-2001 economic crisis in Turkey and its impact on the economy of North Cyprus was decisive to attract mass support for

²⁸⁴ Afrika, 8.04.2004, Serhat Incirli, Plan nedir, ne değildir? [What is the Plan, what is it not?]

²⁸⁵ Halkın Sesi, 16.04.2004, Mustafa Gündüz, Referanduda Evet Demeliyiz.

²⁸⁶ UNSG (1 December 2000). Report of the Secretary General on his Mission of Good Offices in Cyprus. New York, UN. S/2000/1138.

the civil society and the opposition's political agenda, especially, for a decreased role of Turkey in North Cyprus.

The nationalist leadership maintained broad support for its policy of independence and international isolation thanks to the huge public sector and a welfare system that was consciously kept intact by distributing the aid from Turkey to public workers and pensioners. According to Sonan (2007), the unfaltering flow of aid from Turkey helped the TRNC leadership to generate "constituency clientalism" which sustained support for the state ideology. However, the financial crisis in Turkey became 'a cathartic element' which "reduced the ability of the incumbent elites to contain discontent and the envisioning of political alternatives through the traditional instruments of patronage and clientelism" (Lacher and Kaymak 2005: 150). The crisis reduced the willingness and ability to maintain the same level of aid to North Cyprus in Turkey. Moreover, Turkey demanded the Turkish Cypriot government to apply austerity measures by cutting high public expenditures, public salaries and pensions (Sonan 2007). Bryant and Yakinthou (2012) note that since then, Turkey has become "the IMF of the TRNC" which ignited public reactions and helped the local groups which criticised the role of Turkey in North Cyprus gain more public support.

The crisis in Turkey started to escalate in 1999 right after the Helsinki Council decisions that guaranteed membership to the RoC and when the first two versions of the Annan Plan were revealed. Civil society and the opposition successfully aligned the independence ideology and the status quo with what they consider as the root causes of the political and economic conditions of the Turkish Cypriot society and promoted reunification and EU membership as not 'the ideal' but the most feasible option to break the economic dependence on Turkey and the monopoly of the traditional elites. When the government defaulted to pay salaries for the public workers in July 2000, the demonstration called for action against the economic package demanded by Turkey. Business circles which were mostly affected by the decreased production levels and the long-lasting economic hardship, started to withdraw support for Denktaş's leadership and turned to the Annan Plan and the EU membership prospect in support of the political opposition and the civil society groups (Bahcheli 2004).

Following this, the opposition to the traditional elites grew stronger. After the effects of the crisis started to influence the TRNC in 2000, the movement continued to expand in the following years with more societal participation. Support for EU membership also started to increase among the Turkish Cypriot public. In 12 July 2001,

forty one associations, opposition parties and trade unions organised a rally with thousands participants under the slogan “This Country is Ours!”²⁸⁷. The demonstrators asserted their discontent with the status quo, the economic situation and called for a change in the attitude towards the EU and bi-communal activities as well as for self-governance free from Turkey’s influence and the demilitarisation of the island. The movement was organised under the name of ‘the Citizens’ Movement for Co-existence and Reunification’. In the founding declaration of the citizens’ movement, it was stated that the aim was “to contribute towards the development and propagation of the culture of peaceful co-existence between Greek Cypriots, Turkish Cypriots and the other ethnic groups in Cyprus [through promoting] principles of understanding and co-existence between people, irrespective of their ethnic origin, religion, gender, colour and difference of opinion, within the context of the European Union”²⁸⁸.

Several NGOs, political parties, business associations and trade unions totalling 91 organisations joined ‘the Common Vision of Turkish Cypriot Civil Society’ platform in August 2001 to demand an urgent settlement of the conflict before accession to the EU. The Common Vision Platform asserted that the desire of the Turkish Cypriot side was a settlement based on two equal constituent states, a single international identity and EU membership before the end of the year 2002. During this period, new political establishments emerged such as the *Çözüm ve Avrupa Birliği Partisi* (the Solution and European Union Party) out of collaboration between civil society and political opposition. These demonstrations continued with exponential numbers of attendance from Turkish Cypriots through 2002 and 2003.

The alliance between the civil society organisations, opposition parties, trade unions and business associations played a central role in increasing the pro-EU movement’s power. For instance, the role of the Teachers’ Union (KTÖS and KTOEÖS) and the Civil Servants’ Union (KTAMS) are worth mentioning which adroitly conveyed a message to the public that contrary to what the TRNC government claim, the EU promise given in the 1999 Helsinki Council to the RoC set an opportunity for also Turkish Cypriots to reach a mutually agreed solution and to end the decades old isolation. The KTÖS conducted a public campaign through local dailies declaring that Turkish Cypriots did not need Turkey’s money, nor economic package, nor civil servants (Guven 2003). The

²⁸⁷ See http://www.tech4peace.org/nqcontent.cfm?a_id=1116 for a list of civil organisations, trade unions which form the Platform.

²⁸⁸ The founding declaration can be reached at http://www.tech4peace.org/nqcontent.cfm?a_id=1606.

opposition party CTP withdrew from the Turkey-TRNC Association Council protesting the economic package and further integration with Turkey.

Business groups like the Turkish Cypriot Chamber of Commerce (KTTO), the Chamber of Shopkeepers and the Artisans, Chamber of Industry, the North Cyprus Businessmen Association, the Turkish Cypriots Tourism Association also declared their support for the EU integration through arguing the EU has an important potential to help the Turkish Cypriot economy to prosper and close the economic gap between the north and the south²⁸⁹. In Şener Levent's words, the pro-EU/pro-reunification movement has actually become "a rally against the status quo", a rally "which denied the existing social, cultural, political, economic and geopolitical institutions that underlined the nationalist regime's independence policy"²⁹⁰.



Pictures from demonstrations. Banners read as "Solution, right now", "'No' to assimilation", "'No' to rule by instructions". Source: Turkish Cypriot dailies Yenidüzen and Afrika, 2003-2004.

²⁸⁹ Author's interviews, KTTO, February 2012, Nicosia.

²⁹⁰ Afrika, Şener Levent, 17.04.2013.

Undoubtedly, public support for the movement was a decisive factor. Especially, the Turkish Cypriot youth who were born and grew up after the war and in total isolation from both the Greek Cypriot society and from the rest of the world, felt the effects of isolation more than the older generation. It was against this background that the Turkish Cypriot youth demanded new opportunities when the EU membership prospect came into the picture in order to increase the quality of their life, social and cultural recognition through a 'legitimate' state acknowledged by the rest of the world. In other words, the young generation demanded 'a normal life' and was increasingly convinced that co-existence with Greek Cypriots would be a nearer possibility than independence²⁹¹.

From the start of the mass movements until the referendum, the pro-solution local newspapers assumed an important role to keep public support alive in favour of the Annan Plan, reunification and the EU. The local press carried out a campaign to promote the Annan Plan as the only path 'towards a reunited Cyprus and Europe'²⁹². *Afrika* as the most critical newspaper of the monopoly of the nationalist government and Turkey supported the pro-EU campaign movement by a banner stating 'no to invasion and annexation, yes to the EU and a solution' at top of each page until the referendum. *Yenidüzen*- a pro-CTP Turkish Cypriot daily –claimed that for the first time in the history of Cyprus conflict, a real solution can be found with the EU involvement²⁹³. A columnist wrote in *Yenidüzen* that 'the EU came into the picture when hopes had just run out' claiming that the EU has become a novel paradigm in Cyprus conflict to balance the impact of Turkey and the Greek Cypriot government²⁹⁴.

These movements declared that their aim was to promote an agenda to make Turkish Cypriots 'the masters of their own country' and reconnect to the world instead of seeking independence (Hatay and Bryant 2008). According to Anastasiou (2008: 92), '[t]he emerging struggle within the TC [Turkish Cypriot] community was one between the traditional, nationalist, old-guard with its top-down, statist model of governance and the newly founded forces of TC civil society, with their increasingly European vision of democracy and governance'.

The public support for the movement steadily increased after the demonstrations and the December 2003 elections brought the main opposition- the leftist CTP- into office.

²⁹¹ Various interviews conducted by university students and young Cypriots, 2011 and 2012, Bath.

²⁹² Kıbrıs, 14.02.2004, Birleşik Kıbrıs ve Avrupa'ya Doğru' [Towards a Unified Cyprus and Europe]

²⁹³ Yenidüzen, 05.06.1999, "Kıbrıs Sorununu Çözün" [Resolve the Cyprus problem].

²⁹⁴ Yenidüzen, 2002, Fatma Azgın, "Umutların Tükendiği Noktada AB" [European Union when hopes are lost]

The CTP pursued an election campaign based on the EU membership promise with a slogan ‘Avrupa göründü’ (Europe has come in sight). The new coalition government under the CTP’s leadership established ‘a reconciliation and solution’ government. After the new government became a part of UN negotiations, the Turkish Cypriot side’s official discourse towards the EU quickly changed to allow a flexible stance in the Burgenstock talks in early 2004. The CTP’s aim was to support the Annan Plan and to reunify the island before the EU accession date May 2004. Government also started active lobbying at home in favour of the EU “Come join us to reconnect North Cyprus to the world!”²⁹⁵ to convince Turkish Cypriots in favour of the Annan Plan. The Annan Plan and the referendum were sometimes even treated as of secondary importance or of instrumental value given the EU accession prospect. A Columnist wrote just before the referendum that “it doesn’t matter if the referendum takes place in April [2004], if the result would be yes or no, it is no longer a matter of concern for Cypriots. May [mentioning 1 May as the accession date of Cyprus] is behind the door. On that date, the whole world would be open to Turkish Cypriots through Europe”²⁹⁶.

To sum up, the analysis of legitimation through local ideas reveals that after decades of low profile and oppression; the prospect of EU membership has brought the local peace initiatives a novel opportunity to express themselves to the wider society. Although the EU failed to deliver a coherent and credible agenda and although pro-peace groups neither idealised the EU, nor the Annan Plan, the EU framework as promoted by the Commission achieved a broad based diffuse support in North Cyprus. Erol Kaymak stated that

It [Turkish Cypriot mobilisation in favour of solution and Annan Plan] was all about the European Union, the ideas and symbols that the Union represented for Turkish Cypriots at that moment. That is to say economic, political and social security, stability and existence as a part of the international community were associated directly with the EU”²⁹⁷.

The local civil society and the opposition parties adopted the EU framework (norms and role model) to generate mass support for their own vision of solution and an end of the

²⁹⁵ Yenidüzen, 13.04.2004, CTP-BG Merkez Kurulu Basın Açıklaması [CTP Press Statement].

²⁹⁶ Afrika, 10.04.2004, Arif Hasan Tahsin, Mandra’nın Duvarı Delindi’

²⁹⁷ Author’s interview, Erol Kaymak, Eastern Mediterranean University, February 2012, Nicosia

isolations against the decades old dominance of the nationalist and independence-seeking state ideology. The reason for such a change in the perceptions of the EU was the economic crisis affecting Turkey and local political opposition and civil society's utilisation of EU prospect. The EU framework was linked to perceived remedies for the isolation from the rest of the world, dependency on Turkey and the monopoly of the nationalist elite. In order to convey their message to the masses, civil society, political opposition and business groups joined together to facilitate a broad based demand for change in the traditional policy of independence through EU membership.

As a result, the state ideology and the monopoly of the nationalist elite "ha[ve] eroded as more and more Turkish Cypriots question whether this state actually reflects their political will. ... It is not just an increasing dissatisfaction with the failure to gain external recognition, but wide-ranging scepticism as to the quality of the TRNC's internal sovereignty that now prevails. This, in turn, has freed the political imagination to the consideration of alternative forms of political community that eventually prevailed in the 2004 referendum" (Lacher and Kaymak 2005: 155). In other words, the EU framework became a neologism for the Turkish Cypriot civil society to mobilise masses for self-governance free from Turkey's fate and monopoly of the traditional elites by normativising and rationalising the EU in light of the local perceptions of conflict, status quo and resolution. Without the local civil society's reinterpretation and adaptation of the EU framework in light of the local discontent and demands, in the absence of direct involvement by the EU in this process (in the absence of tangible policies and direct relations with North Cyprus), the EU norms and ideas would not be able to diffuse into the broader public.

7.4 Legitimation through Procedural and Participatory Qualities

In this section, the EU's legitimation through procedural/participatory qualities in Cyprus is analysed by looking into the continuity of deliberation between the Turkish Cypriot local groups and the EU and the transparency of the institutions representing the EU. In order to secure specific support for EU actors through procedural/participatory qualities, it is essential for the EU to make policies via a process of consultation and argumentation through which local interests are debated and taken into consideration. Since the EU has not established direct institutionalised links with North Cyprus similar to the ones in Kosovo, legitimation through procedural/participatory qualities of the EU as a policy actor

can be studied by looking at the continuity and immediacy of the communication between the semi-formal EU bodies (sections 6.2.1 and 6.2.2) and various local stakeholders. Direct and uninterrupted access to these institutions becomes highly important in gaining support for EU policies, especially given the fact that Turkish Cypriots cannot be officially represented in Brussels.

Given the absence of direct representation, the new pro-reunification/pro-EU leadership (which came into power in the 2003 elections and established a single party government in the 2005 elections) hoped that closer institutionalised relations would still benefit Turkish Cypriots, even though the TRNC was left out of the institutional and legal reach of the EU. As Özdil Nami, a member of the parliament from the CTP summarised the common expectation after the referendum was that “the rules of the game have changed. Now Turkish Cypriots would be much more integrated with the world and especially with the European institutions through direct and close relations. The Europeans can finally listen to each side directly and make impartial decisions”²⁹⁸.

As discussed in Chapter Six, various semi-formal and *ad hoc* bodies and mechanisms have been established to engage with Turkish Cypriots directly after the referendum. Moreover, the EU’s support and direct contacts with non-state organisations have become a constant feature of EU’s relations with local groups. As a result, the EU’s visibility and communication with local stakeholders have considerably increased since the Union has introduced these semi-formal institutions. Among these bodies, the EU Commission Programme Support Office (EUPSO), which was set up in the northern sector of Nicosia to deal with the practical arrangements of the distribution of the financial aid, has become a prominent setting for direct communication between the EU and the governmental and non-governmental local groups, according to the local authorities. Since 2006, the EUPSO works with the EU Coordination Centre (EUCC) on a daily basis. The EUCC was established under the TRNC Prime Ministry’s office. In practice, the EU Task Force in the Turkish Cypriot sector of Nicosia acts as an intermediary institution between the Commission and the TRNC authorities. Due to the unrecognised status of the government in North Cyprus, there is no formal mechanism to involve the TRNC’s correspondent ministries or councils in the decision-making. The EUCC acts on the one hand as a major channel that dispense information to the public about the EU’s current agenda and activities in general; on the other, as a mediatory institution that liaises with

²⁹⁸ Cyprus Observer, 24 February 2006.

the Commission and public institutions in the TRNC in order to “determine the priorities and necessary arrangements” and to “provide proposals and suggestions”²⁹⁹. Commission officials have daily contacts with not only the EUCC, but also with various business groups, trade unions and civil society organisations in order to set short term agenda and roadmaps to realise the objectives of the FAR such as initiating economic development through distribution of aid, harmonisation of the TRNC legislation and support for economic integration of the economies of the both sides of the island³⁰⁰.

However, it is difficult to talk about public transparency of the EU’s only representation in North Cyprus. First, there are no media appearances of the EU officials through interviews in local newspapers or TV channels in order to improve a visibility and understanding of the EU for the public. The office of the Commission (EUPSO) acts in total secrecy. The ground officials in the northern sector of Nicosia are barred from circulating reports outside the office, giving statements and interviews and sharing information except the technical details of aid distribution. As a result, public transparency of EU institutions action in North Cyprus is considerably limited. Given the lack of information provided from the first hand sources, the local population usually relies on Turkish or Greek Cypriot interpretation of the implementation details of the projects (Christophorou, Şahin et al. 2010).

Since the referendum, the civil society dialogue is more structured on both sides with the increase in the number and scope of bi-communal initiatives thanks to the close collaboration between the EU, local civil society organisations on both sides and other international donors such as the UNDP and USAID. Under the FAR, the EU has allocated €14 million for reconciliation, confidence building and support to civil society³⁰¹. Through direct support for civil society to build trust between communities, the EU aims to involve publics on both sides in favour of a future settlement³⁰². As a result, new bi-communal projects have been initiated by the Greek and Turkish Cypriot civil society organisations. For instance, the Home for Cooperation opened by the bi-communal Association for Historical Dialogue and Research continues to provide a common meeting and discussion point for both Greek and Turkish Cypriots at the UN buffer zone. Most of other organisations actively organise bi-communal events such as musical events ‘everybody’s

²⁹⁹ EUCC Establishment and Activities, http://www.eucoordination.org/english/establishment_activities.html.

³⁰⁰ Author’s interview with Task Force for Turkish Cypriot community, February 2012.

³⁰¹ Ibid.

³⁰² Author’s interview with Bülent Kanol, op. cit.

song', 'peace busses' circulating in towns in the north and the south, women's concerts, oral history projects, peace marches and festivals, villagers reunion meetings, bi-communal youth summer camps, history education projects (Hadjipavlou 2007). The Turkish Cypriot Teachers' Union together with the CTP government also promoted the project of rewriting school history books to eliminate ethnic hatred and nationalism in education in collaboration with the EU Support Office (Papadakis 2008; Vural, Ozuyan et al. 2008).

All bi-communal non-governmental initiatives aim at reunifying the island and ensuring integration of the north into the EU in accordance with the UN parameters. In the meantime, the civil society dialogue is expected to contribute to "promoting an understanding of the causes and implications of division, exploring aspects of interdependence, and promoting the benefits of engagement" (Gillespie, Georgiou et al. 2011: 18). Acknowledging the power of civil society initiatives in the north before the referendum, the EU aims to follow a bottom-up approach through empowering the most important pro-peace actors on the ground and reviving the desire for reunification among the Turkish Cypriot public³⁰³. In this sense, as Tocci (2010: 5) argues, "engaging with the local civil society is of the essence to enhance the legitimacy, rootedness and thus long-term effectiveness of EU conflict transformation policies". In relation to Turkish Cypriot civil society, the EU follows a special grass-roots channel to maintain consultation with pro-solution local actors in North Cyprus. Close coordination and support for local civil society initiatives has provided the EU with an alternative democratic way of strengthening its conflict resolution agenda on the ground, working across the divide and altering zero-sum understanding prevailing in both communities without direct intervention similar to EU trainings for the civil society in Kosovo³⁰⁴.

However, the bilateral relations between the Commission, the EU Coordination Centre (EUCC) and civil society groups serve as the only examples of continuous and direct dialogue channels. Other mechanisms set up by the EP were short-lived due to legal complications and political interventions of the Greek Cypriot government. For example, the High Level Contact Group initially provided a useful communication served as a forum for Turkish Cypriot business groups and trade unions as well as political parties which utilised the Group to deliver political and economic demands directly and effectively given

³⁰³ Author's interviews with CSOs in North Cyprus, February and May 2012, Nicosia.

³⁰⁴ Ibid.

the lack of representation of Turkish Cypriots in EU institutions³⁰⁵. Before its dissolution, the Group served to increase the local visibility and understanding of the EU in North Cyprus and conveyed the message to the Turkish Cypriot public that the EU was willing to take Turkish Cypriot demands into consideration.

After the Group's leadership changed in 2012 (see Section 6.2.1), the Group became reluctant to continue to meet local groups in North Cyprus. Turkish Cypriots criticised the new attitude of the leadership by claiming that the group no longer offered any opportunity to convey the Turkish Cypriot demands to the EU³⁰⁶. Increasing protests of the Group became public as local newspapers started to refer it as 'the holiday group' whose members prefer to stay in the Greek Cypriot south and make symbolic visits to the island without crossing the Green Line to visit North Cyprus³⁰⁷. Local non-governmental bodies which used to have regular meetings with MEPs also withdrew support for the Group claiming that under the new leadership, the Group became 'hostile' towards the Turkish Cypriot side. For instance, the KTTO was one of the ardent supporters of the Group among the local non-governmental organisations (and had the most frequent liaisons with it). However, in a letter dated 8 February 2012, the KTTO expressed their disappointment with the change of the attitude within the Group towards Turkish Cypriot side to the Parliament President Martin Schulz:

When the European Parliament's High Level Contact Group for relations with the Turkish Cypriot Community in the Northern Part of the Island of Cyprus' was first formed in 2005 the Turkish Cypriots hoped that, in the absence of elected Turkish Cypriot representatives at the European Parliament this group could at least help convey the expectations of the Turkish Cypriot people in your House. It is extremely sad to see that ... how some members of the Group were ironically against meeting the Turkish Cypriot political leadership or staying at Turkish

³⁰⁵ Two seats that were allocated to Turkish Cypriot representatives in the European Parliament were fulfilled by Greek Cypriot MEPs (deMestral, A. (2007). The current status of the citizens of the Turkish Republic of Northern Cyprus in the light of the non-application of the "acquis communautaire" Human Rights, democracy and the rule of law. S. Bretenmoser, B. Ehrenzeller, M. Sassoli, W. Stoffel and B. W. Pfeifer. Baden-Baden, Nomos.) Moreover, in 2007, the Conference of Presidents of the European Parliament rejected that Turkish Cypriot representation in the Parliament should be ensured through alternative means by confirming a legalistic approach that "it is not possible for the European Parliament to invite observers from the Turkish Cypriot community" . (Skoutaris, N. (2011). Legal Aspects of Membership. An island in Europe : the EU and the transformation of Cyprus. J. Ker-Lindsay, H. Faustmann and F. Mullen London, I.B. Tauris: 42-64.)

³⁰⁶ Haber Kıbrıs, 20.02.2012, Ozan Ceyhun, 'Kıbrıs'ta Türkleri aptal sanan "Yüksek Temas Grubu".'

³⁰⁷ TRNC news headlines, 1 June 2012, http://www.turkishpress.com/news.asp?id=382564#.UG2P8ZjA_yk

Cypriot hotels built on Turkish Cypriot owned property. During a few of their trips to the island, the Group in fact spent more time visiting churches and schools in the Greek Cypriot south instead of maximising the opportunity to listen to and make contact with the Turkish Cypriot people living in the north. To this background, it is extremely disappointing for Turkish Cypriots to see that [the Group] has an insincere vision of Turkish Cypriot people's European future. It is time that the European Parliament re-evaluate the mandate and intentions of the group [...] otherwise, it would perhaps be in everyone's interest that the Group be dissolved³⁰⁸.

The TRNC president Eroğlu also blamed the Group as reversing its actual mandate in order to prevent Turkish Cypriot demands from reaching Brussels³⁰⁹. The Group's dissolution did not change the EU's attitude towards the status of North Cyprus or the presence of de facto state structures, but a useful and open forum for deliberation between Turkish Cypriots and the EU was lost. The Group would have helped pro-EU/solution groups to keep public support for the EU alive.

Similar to the Contact Group, another forum for direct relations, the observer group from the CTP which was invited to join the Socialist Group in the Parliament, has not been sufficiently stimulated to allow the pro-EU/pro-reunification party to serve as an intermediary actor between the Turkish Cypriot public and the EP. The Turkish Cypriot representatives mostly complain that they are not allowed to speak either in the plenary meetings or in committees even when the subject of discussions concerns the Turkish Cypriot people³¹⁰. Özdil Nami, a member of the CTP's observer group in the EP, stated that the Turkish Cypriot observers' only function is to witness the Greek Cypriot MEPs' successful removal of all references to the Annan Plan in the Parliament discussions (i.e. derogations in favour of bi-communality and bi-zonality of a future federation) and replacing them with the *acquis* principles as the basis of future settlement (i.e. freedoms of movement, settlement, property etc. which were constrained by the Annan Plan to preserve the bi-communal and bi-zonal character of the proposed federation). Mostly due to the Greek Cypriot lobbying power within the Parliament, the Turkish Cypriot observing group

³⁰⁸ KTTO letter to European Parliament President Martin Schulz, 'The lack of representation for Turkish Cypriots at the European Parliament' 8 February 2012, a copy of the original letter collected by the author during the visit to the KTTO office, Nicosia, 2012.

³⁰⁹ Kıbrıs, 06.02.2012, Eroğlu'ndan AP'ye Sert Elestiri [Harsh Criticism to the EP from Eroğlu]

³¹⁰ Author's interview, Armağan Candan, CTP, February 2012, Nicosia.

is convinced that the Parliament's one-sided attitude does not only disseminate a biased opinion of North Cyprus within the EU but also, produces reports in contrast to its primary law, i.e. the Accession Treaty of Cyprus which acknowledged the bi-communal bi-zonal federation in Cyprus³¹¹.

Some civil society organisations often complain about the Greek Cypriot lobbying power and their lack of access to the EU institutions. For instance, the KTTO claimed that “the European Parliament has been taking numerous decisions on matters that directly affect the future of the Turkish Cypriots but without any consideration of their opinions, needs and concerns ... Greek Cypriot MEPs who claim to speak for the whole island have been doing their utmost to block any positive steps towards the Turkish Cypriot, let alone to ‘represent’ them”³¹².

These examples show that the semi-formalised relations with North Cyprus set up by the EP in order to provide direct and alternative ways of consultations and listening their demands in the aftermath of the referendum have been overshadowed by the legal complications due to the TRNC's unrecognised status and political interventions by the Greek Cypriot side. Especially given the Turkish Cypriot expectations, the level and quality of direct relations have remained limited to the relations between the EUPSO and the EUCC. The consultative bodies preferred to keep a low profile and even turned against having bilateral relations with the Turkish Cypriot groups. As a result, the current state of Turkish Cypriot participation into EU policy-making and implementing has remained limited thanks to the secrecy and self-imposed low-profile that prevented *ad hoc* EU bodies from establishing direct relations with the Turkish Cypriot local groups. The lack of direct access of local groups including political parties, civil society organisations and the public to the EU institutions restricted the channels of open communication and deliberation between the EU and Turkish Cypriots, although the island has become a member in its entirety and there are many Turkish Cypriots holding EU citizenship.

The consequences of denied access to representation in Brussels and limited direct deliberation with the EU bodies are increasing resentment and rising scepticism towards the EU's role in the conflict resolution process. There are serious concerns among the public and the political leaders about the Union's true willingness to give Turkish Cypriots

³¹¹ TCHRF (2008). The Turkish Cypriots: The Excluded European Citizens. Turkish Cypriot Human Rights Foundation. Nicosia.

³¹² KTTO, letter to European Parliament President Martin Schulz, op. cit.

a voice and to acknowledge their demands and expectations about a solution³¹³. Perhaps more importantly, the civil society organisations which have been the most influential pro-EU local actors have also joined these criticisms regarding the EU's reluctance to maintain communication with local actors³¹⁴. Recently, their demand for direct institutional mechanisms to convey their expectations and needs as citizens of the EU has taken a new shape through protest events. Local groups in North Cyprus have used the RoC's Council Presidency in 2012 as an opportunity to raise their representation demands as 'EU citizens'. For example, civil organisations including the Turkish Cypriot Businessmen Association organised an event in Brussels in order to declare that they would continue to struggle to raise awareness in Brussels to pressurise the EU to take a step to integrate Turkish Cypriots within the institutional structures of the EU and to engage with the demands of 'its own citizens'.



Source: On the left, the event organised by the Cyprus Turkish Association in London, 13 September 2012.

Source: http://embargoed.org/events.php?event_id=29.

On the right, the protest organised by the Turkish Cypriot Young Businessmen Association: 'Forgotten EU Citizens', 29 June 2012. Several Turkish Cypriot representatives of civil society organisations, business and trade associations were dressed up as 'ghosts' to convey the message to Brussels that they are 'forgotten EU citizens'. Source: <http://www.giad.org/>.

To sum up this section, legitimisation through participatory and procedural qualities aims to understand how local support is granted or withdrawn due to the level of participation and deliberation between various local groups and EU actors on the ground. After the positive steps taken by the EU in the aftermath of the 2004 referendum, the Turkish Cypriot civil

³¹³ Author's interview, Armağan Candan, op. cit.

³¹⁴ Author's interviews, KTTO and KTÖS, February 2012, Nicosia.

society and leadership expected an improvement in direct access to EU institutions on the ground, at least in order to convey their demands to the EU more directly and to maintain the public's pro-EU attitude. Nevertheless, the EU's visibility and transparency of the semi-formal institutions are considerably limited due to the political status of North Cyprus. The *ad hoc* consultative bodies of the EP were also shadowed by the recognition debates and Greek Cypriot objections and failed to provide open and continuous channels for deliberation. Moreover, the Turkish Cypriot public is still devoid of the right to representation at the institutional level as citizens of the Union.

As a result, local civil society which has been the driving force behind pro-EU integration and pro-reunification movements has become increasingly critical of the 'effective exclusion of Turkish Cypriots from the EU institutions'. While continuing absence of representation and downgrading the potential of consultative bodies have increased the sense of disappointment among Turkish Cypriots, it also impairs the scope of the EU's conflict resolution activities, by decreasing support as further explained in the next section.

7.5 Legitimation through Performance

The last section of the analysis of EU's legitimation addresses performance-based sources for the EU to generate specific support from the local audience in Cyprus for the implementation of policies and outcomes. As discussed previously, before the referendum, the EU did not offer tangible policies targeting solely Turkish Cypriots as a part of its conflict resolution engagement. Rather, the EU played the card of reunification under a UN plan and relied on several future commitments and prospects for Turkish Cypriots to facilitate local support for reunification. However, this approach has changed in the aftermath of the referendum. The EU took action to offer tangible policies starting from 2004 to engage the Turkish Cypriot community which showed willingness to reunite with the Greek Cypriot community under EU membership.

In this sense, the section discusses the economic development policies through the Green Line Regulation (GLR) and the Financial Aid Regulation (FAR) and EU's commitment to lift the isolations of North Cyprus through direct trade (DTR). For the Commission and some member states, removing the isolations of North Cyprus was the best option available. It would mean revitalising the economy of North Cyprus independent from Turkey and integrate it into the EU as well as closing the economic gap

between the north and the south through special technical and financial assistance. The economic development policies for the northern part of the island would allow the EU to target the urgent needs of the Turkish Cypriot community correctly, to maintain the EU leverage in North Cyprus through offering tangible benefits, and finally to continue to support an internationally-accepted settlement on the island. The section aims to answer to what extent the local groups' expectations are met through these policies and what are the consequences of non-implementation for the EU's authority as a conflict resolution actor.

7.5.1 Economic Development through Financial Aid and Intra-island trade

Given the current economic situation in North Cyprus, the EU's move to generate economic development promised an efficient and clever way of addressing Turkish Cypriots' well-being in the long-term as EU citizens. As discussed in the previous chapter, the EU aimed to contribute to the long-term economic development, infrastructure building and the improvement of the legal system of North Cyprus in line with the *acquis* without recognising the TRNC. The objective of the EU is to "facilitate reunification of Cyprus" and to ease the potential difficulties of a future reunification due to the different levels of economic development on both sides on the island³¹⁵. Business groups that were interviewed in North Cyprus also argued that the EU also aims to prevent the border between the Greek and Turkish sides (the Green Line) to turn into the external border of the EU by uniting the economies of the north and the south³¹⁶.

However, the implementation of the GLR has not generated the intended results due to the economic, legal and political-psychological obstacles that prevented the EU initiative from bringing the expected outcomes. First, trade through the Green Line did not contribute to the economic reunification of the island and failed to generate a real economic revival for the Turkish Cypriot community as expected. The Greek Cypriot authorities for a long time (until 2009) rejected the trade of certain goods that are traditionally produced on both sides, such as traditional halloumi cheese or fresh fish since these products would compete with the Greek Cypriot products on the domestic market. Gradually, the variety of products were increased with some modifications in the original GLR, but the Turkish Cypriot business groups continue to complain that Green Line trade

³¹⁵ European Council (27 February 2006). Council Regulation establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community and amending Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction. EC No 389/2006. E. Council. Brussels.

³¹⁶ Author's interviews with CSOs and KTTO, February 2012, Nicosia.

is simply not enough to revitalise the Turkish Cypriot economy, since the traded products are mostly similar on both sides of the island and thereby, trade cannot be based on comparative advantage³¹⁷. Moreover, several products which constitute the basis of the Turkish Cypriot production such as citrus fruit and dairy products are still forbidden to cross the Green Line (Gokcekus, Henson et al. 2012).

Second, there are political and psychological obstacles that prevented the circulation of Turkish Cypriot products in the Greek Cypriot part. For instance, Turkish Cypriot commercial vehicles could not freely cross the Green Line since the Greek Cypriot authorities did not accept any documentation or driving licence issued in the north. Also, the Greek Cypriot authorities require Turkish Cypriot companies to register for taxation, which is rejected by the authorities in North Cyprus since both governments do not recognise each other³¹⁸. Other obstacles involve purposeful prevention of advertising Turkish Cypriot products in the south, intentional delays of clearing goods at the customs gates, inhibition of temporary crossings of Turkish Cypriot goods to be displayed at expositions in the south and repacking the Turkish Cypriot products to hide their origin³¹⁹. Such invisible barriers obstruct the intended effect of Green Line trade more than the legal and economic obstacles. According to the a recent study, the 35% of the unrealised potential trade is due to legal constraints, while approximately 55% results from socio-psychological barriers (Gokcekus, Henson et al. 2012).

Although the EU reason for facilitating trade between the two communities through the GLR was to increase the incentive for cooperation for economic reasons on both sides (that might spill over to cooperation in other fields), the Green Line trade created only minor economic impact in North Cyprus and even less incentives to cooperate mostly due to psychological barriers and politicised nature of the Green Line. For example, in 2010, only 0.06% of RoC's total imports were from North Cyprus which demonstrates that trade between the two sides remains at a symbolic level with a tendency to decrease recently³²⁰. The total value of goods crossing the Green Line has decreased by approximately 25%

³¹⁷ Author's interviews, KTTO, February 2012, Nicosia.

³¹⁸ Commission (14 July 2005). Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application. COM(2005) 320 final. E. Commission. Brussels.

³¹⁹ Commission (25 September 2006). Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application. COM(2006) 551 final. E. Commission. Brussels. Commission (14 September 2009). Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application. COM(2009) 478 final. E. Commission. Brussels.

³²⁰ Commission (30 May 2011). Seventh Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application covering the period 1 May until December 2010. COM(2011) 284 final. E. Commission. Brussels.

between 2008 and 2011³²¹. Overall, although the EU initiative was welcome by the Turkish Cypriot side, political and psychological problems between the Greek and Turkish Cypriots have restricted the intended impact of the GLR and failed to meet the local expectations.

In relation to the implementation of the Financial Aid Regulation (FAR), there are also major handicaps from the local business groups' point of view. Contrary to the problems of the GLR implementation, handicaps with the FAR result from the structural and political problems within the EU. First, the Union's lack of ability to resist the Greek Cypriot intransigence has antagonised various Turkish Cypriot business groups since the implementation of the EU-funded projects are mostly delayed. For instance, the first part of the aid was lost due to late adoption of the regulation; only after some amendments it was re-injected into the Turkish Cypriot economy in 2007³²². But this delay forced the Commission to conduct feasibility studies with a limited budget and in a short time in 2004 and 2005. According to the report of the European Court of Auditors, the pressure during the project preparation phase was one of the main reasons for the current implementation problems³²³.

Second, the EU aims at allocating the financial aid to the specific areas to facilitate visible development in the north. In this sense, the EU has distributed the aid mostly to infrastructure development (approx. €130 million, 54% of the total aid) such as solid waste management, rehabilitation of Lefke copper mine site, local and urban infrastructure upgrading, support for the Committee of Missing Persons, traffic safety management, water and waste management, de-mining of the buffer zone, community scholarships, technical assistance for implementation of EU rule³²⁴. However, the infrastructure development projects have so far remained limited in scope due to the Greek Cypriot veto on the properties in the north since it is estimated that 78% of private property originally

³²¹ KTTO, Green Line Trade, document in file with the author, collected from KTTO on 9 February 2012. Previously, trade between Turkish and Greek Cypriot side through Green Line increased by approximately one third of previous year between 2004-2008. See Commission (20 September 2007). Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application. COM(2007)553. E. Commission. Brussels, Commission (25 September 2006). Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application. COM(2006) 551 final. E. Commission. Brussels.

³²² Commission (19 September 2007). Communication from the Commission to the European Parliament and to the Council Annual Report 2006-2007 on the implementation of Community assistance under Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community. COM(2007) 536 final. Brussels.

³²³ European Court of Auditors (2012). European Union Assistance to the Turkish Cypriot Community. European Court of Auditors Special Report No 6. Luxembourg.

³²⁴ Author's interview with Commission Task Force, op. cit.

belongs to Greek Cypriots and many projects require the consent from the Greek owners³²⁵. In this sense, the EU office in the northern sector of Nicosia avoids dealing with the contested property issue due to the lack of final settlement of the borders and the property issue on the island. According to Kemal Baykallı from the KTTO, the EUPSO “cannot insist vis-à-vis Greek Cypriot authorities that the aim of the projects is to close the development gap between the north and the south and facilitate a reunification in the future rather than settling the property issue between the communities”³²⁶. Since there are no other EU institutions willing to meddle in the property issue, the projects are constantly delayed.

Third, although enhancing the long term economic and social development of the Turkish Cypriot community is the second objective of the FAR, the EU has allocated only €85 million from the entire budget for development of Turkish Cypriot economy³²⁷. As seen from the table below, the EU has prioritised infrastructure building when allocating the total aid. Even a part of the aid allocated to economic development was distributed to the infrastructure development projects, such as establishing new crossing points on the Green Line³²⁸. In this sense, the local stakeholders’ objectives do not match with the EU’s priorities. For the local authorities and business groups, promoting the economy and bringing the Turkish Cypriot community closer to the EU are valued as much as the infrastructure development projects. According to Baykallı from the KTTO, the rural sectors and SMEs should have been given the most of the aid, if the EU really wanted economic development and sustainability in North Cyprus³²⁹. The EU has allocated almost half of the total aid to infrastructure development, while the measures that would establish long lasting transformation of the relations between the Turkish Cypriot community and the EU such as introducing *acquis* and bringing Turkish Cypriots closer to the Union are allocated less than 10% of the total FAR budget.

³²⁵ Commission (19 September 2007). Communication from the Commission to the European Parliament and to the Council Annual Report 2006-2007 on the implementation of Community assistance under Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community. COM(2007) 536 final. Brussels.

³²⁶ Author’s interview, Kemal Baykallı, KTTO, February 2012, Lefkoşa/Nicosia.

³²⁷ European Court of Auditors (2012). European Union Assistance to the Turkish Cypriot Community. European Court of Auditors Special Report No 6. Luxembourg.

³²⁸ Commission (19 September 2007). Communication from the Commission to the European Parliament and to the Council Annual Report 2006-2007 on the implementation of Community assistance under Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community. COM(2007) 536 final. Brussels.

³²⁹ Author’s interview, Baykallı, op. cit.

	Planned (million euro)	% of total planned	Contracted (million euro)	Paid (million euro)	% paid of total contracted
Objective 1 Developing and restructuring of infrastructure	129.25	44.2 %	135.02	76.49	56.6 %
Objective 2 Promoting social and economic development	84.65	29.0 %	64.87	49.41	76.2 %
Objective 3 Fostering reconciliation, confidence-building measures and support to civil society	23.50	8.0 %	19.90	17.61	88.5 %
Objective 4 Bringing the Turkish Cypriot community closer to the EU	12.50	4.3 %	8.62	7.49	87.0 %
Objective 5 Preparing the Turkish Cypriot community to introduce and implement the <i>acquis communautaire</i> and unallocated technical assistance and Programme Reserve facility	21.35	7.3 %	15.69	14.15	90.2 %
Subtotal — Operational part	271.25	92.8 %	244.10	165.15	67.7 %
Management (Staff and Missions), Logistics	21.05	7.2 %	15.30	13.64	89.1 %
Total	292.30	100.0 %	259.40	178.79	68.9 %
‘Objective 5’ here includes Unallocated Technical Assistance and a Programme Reserve Facility to which 1.74 million euro has been allocated.					

Source: Financial Allocations by Objective as at 30 September 2011 (European Court of Auditors 2012)

Furthermore, EU support for the Turkish Cypriot SMEs has so far faced many difficulties at the implementation stage due to bad planning. To give an example, when the EU experts proposed a micro and small enterprise loan programme, the SMEs were initially allocated €9 million. However, it was shortly realised that the proposed implementation scheme through a development bank was not consistent with the FAR principle which foresees that grants should not generate profits. The programme which the local business groups and entrepreneurs considered as one of the most useful projects for the economic development of North Cyprus was delayed for a long time³³⁰. In 2008, the Commission eventually found

³³⁰ Commission (15 September 2008). Communication from the Commission to the European Parliament and to the Council Second Annual Report 2007 on the implementation of Community assistance under Council

a contractor from Germany to implement €800,000 grant scheme for the Turkish Cypriot SMEs in order to improve their competitiveness together with the private sector development project which was worth €600,000 aid³³¹. Yet, the micro and small enterprises project could not start due to a disagreement between the Commission and the German contractor responsible for the implementation regarding the political status of North Cyprus³³². As a result, funds from this project were transferred to infrastructure building (European Court of Auditors 2012). Only in 2010, the Commission introduced another SME support programme with two grant packages that led to 33 contracts worth of €4.5 million³³³. Benefactors have received technical assistance during the preparation and implementation of their projects. However, the sustainability is doubtful since the North Cyprus authorities are excluded from the implementation process; and thereby, technical skill transfer to Turkish Cypriot authorities cannot offer support and advice to local benefactors in the future (European Court of Auditors 2012).

The EU is also criticised for not grasping the local business culture. The implementation of some infrastructure building process was cancelled by the EU due to local companies' protests because those companies claimed that the open and competitive approach that the EU undertakes for tendering was disadvantageous for them. When restructuring plan for telecommunications sector was announced in May 2011, public workers of the TRNC Telecommunications Office went on strike for weeks³³⁴. Some other projects had to be cancelled because of not attracting much interest from the international

Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community. COM (2008) 551 final. E. Commission. Brussels.

³³¹ Commission (8 July 2009). Communication from the Commission to the European Parliament and to the Council Third Annual Report 2008 on the implementation of Community assistance under Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community. COM(2009) 286 final. E. Commission. Brussels.

³³² Commission (20 September 2010). Communication from the Commission to the European Parliament and to the Council Fourth Annual Report 2009 on the implementation of Community assistance under Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community. COM(2010) 468 final. E. Commission. Brussels.

³³³ Commission (20 September 2010). Communication from the Commission to the European Parliament and to the Council Fourth Annual Report 2010 on the implementation of Community assistance under Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community. COM(2010) 468 final. E. Commission. Brussels.

³³⁴ Kıbrıs, 21.05.2011, Süresiz Grev Uyarısı [Warning of indefinite strike].

contractors. Such problems in implementation delay the delivery of efficient outcomes and economic development in North Cyprus³³⁵.

Fourth, the project of bringing the Turkish Community closer to the Union has become another example of the EU's limited efficiency and local discontent with the implementation of the FAR. The EU has allocated a part of the financial aid to community scholarship and youth exchange programmes and opened an information point in the northern sector of Nicosia³³⁶. While such efforts are appreciated, Turkish Cypriots have interpreted the objective of 'bringing Turkish Cypriots closer to the Union' in line with the broader goal of lifting the isolations of North Cyprus. According to the Turkish Cypriot Human Rights Foundation (TCHRF), the EU claims that isolations of Turkish Cypriots are territorial and the individual rights of Turkish citizens are guaranteed. However, there are far-reaching implications of the continuing isolations in cultural and social areas. For Turkish Cypriots, even social, cultural and scientific events like archaeological excavations, international summer schools organised by the Turkish Cypriot universities and the accreditation of universities into the European Higher Education system are still a major obstacle to get closer to the EU³³⁷. For example, during our interview Erol Kaymak stated that the ECPR winter school for 2011-2012 term was planned in the Eastern Mediterranean University. The ECPR committee came to the island to visit the facilities and approved to the winter school could take place in North Cyprus. Nevertheless, facing pressures from the Greek Cypriot government, the ECPR decided to withdraw the decision.

Given the widespread effects of the isolations, Turkish Cypriots expected that finally they would be allowed to join the European cultural and sports activities, host international conferences and join university exchange programmes thanks to the EU's commitment to bring the Turkish Cypriot community closer to the EU³³⁸. According to the Turkish Cypriot Human Rights Foundation (2008),

In the life of the Turkish Cypriots, "isolation" does not affect just the businessman trying to trade, but also the Turkish Cypriot teenager in the folk dance group, the young graduate or politician trying to make a career in the EU, the university student, the artist and even the Turkish Cypriot footballer. It is not just about being

³³⁵ Author's interviews, February 2012, Nicosia.

³³⁶ Author's interview, Commission Task Force, op. it.

³³⁷ Author's interview, Erol Kaymak, op. cit.

³³⁸ Author's interviews, February 2012, Nicosia.

excluded from the economic activities in which other EU citizens can participate freely. It is also about individuals being subject to exclusion from normal social and cultural events without any fault that can be attributed to them and in a manner that injures their dignity.

The EU activities are seen inadequate compared to the local expectation of bringing Turkish Cypriots closer to the Union. Moreover, the current measures have sometimes worked in unintentional ways. During our interview Ahmet Sözen mentioned that the EU introduced the scholarship program for Turkish Cypriot students, which made them eligible to go Europe for education. But there is no arrangement to allow any students come to North Cyprus from the EU countries. This means reduced number of students (and even worse, usually the most brilliant ones who get the scholarship leave), less quality for research and funding for the universities in North Cyprus to carry on their activities. The effects of the current brain drain might be felt in the long-term through a widening gap between the north and the south in terms of the skilled and educated workforce and economic development³³⁹.

Finally, besides the divergent priorities of local actors and the EU, the EUPSO's mandate to implement the FAR is significantly restricted by legal issues. For example, the Commission cannot introduce the twinning process which uses experts from member states to work alongside the target country experts to develop local capacities (European Court of Auditors 2012). Moreover, since the EUPSO cannot act as a Commission representation, it has limited capacities of decision-making. Every decision on contracting and implementation must be referred to the Commission which slows down the implementation where four different units of the DG Enlargement deals with the contracts and payments (European Court of Auditors 2012).

On the other hand, the EU's extension of the TAIEX programme for approximation of Turkish Cypriot law to the EU law has been an example of efficient implementation of the FAR from the local point of view. Especially in 2011, there was a major increase in expert missions' assistance in total 16 *acquis* chapters to the Turkish Cypriot community (TAIEX 2011). The Turkish Cypriot authorities acknowledge that the most effective and beneficial aid has been allocated for preparing the Turkish Cypriot community to introduce and implement the *acquis*. They also note that harmonisation is the only area that the EU

³³⁹ Author's interview, Ahmet Sözen, February 2012, Nicosia.

could prevent the Greek Cypriot intervention³⁴⁰. For example, the TRNC authorities prepared a National Programme in 2009 for the implementation of *acquis* (PFAA) in line with the Commission's advice. In the opening statements of the Programme, Turkish Cypriot side noted that:

By conforming with the Comprehensive Settlement Plan offered by the UN Secretary general on 24 April 2004, Turkish Cypriot people do not only voted in favour of bringing a peaceful solution to the almost half a century division on the island, but also clearly stated their will for EU membership and implementation of EU law and standards in the entire island. Nevertheless, after the comprehensive settlement was rejected by Greek Cypriots, while Greek Cypriot side has become a member of the EU, Turkish Cypriot side was unfairly left outside. After four and half years of the failure of the referendum, Turkish Cypriot leadership has increased its efforts to realise the clear will of Turkish Cypriot people. In this sense, restart of the negotiations under UN auspices and restructuring of Turkish Cypriot institutional and legal system in line with the *acquis* are considered parallel to each other³⁴¹.

In line with this vision, PFAA is introduced “to provide a framework for the identification and prioritisation of specific areas of the *acquis communautaire* where assistance will be provided in preparation for reunification”³⁴². Although EUPSO does not recognise any authority in North Cyprus, the process has facilitated a pragmatic engagement on the side of the Turkish Cypriot leadership with the European Commission. The Turkish Cypriot institutions welcomed the intensive harmonisation process through the revision of TRNC legislation similar to a candidate country. Thanks to the PFAA, the assistance from the Commission has been set on a more programmatic medium-term and sustainable approach (TAIEX 2011). As stated by the head of the EUCC Erhan Elçin:

³⁴⁰ Author's interviews, Erhan Elçin, op. cit.

³⁴¹ KKTC/TRNC (January 2009). Kuzey Kıbrıs Türk Cumhuriyeti Avrupa Birliği Muktesebatına Uyum Programı (TRNC National Programme for Acquis Harmonisation). A. K. M. Basbakanlık. Lefkosa.

³⁴² Commission (8 July 2009). Communication from the Commission to the European Parliament and to the Council Third Annual Report 2008 on the implementation of Community assistance under Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community. COM(2009) 286 final. E. Commission. Brussels.

the Turkish authorities are willing to work pragmatically along the Commission officials to get optimum technical and financial assistance for the harmonisation of TRNC law without being obsessed with ‘a title’ or ‘recognition’ for relations. We see this as a process of social and political transformation and EU integration. The Turkish Cypriot side expects the EU to assist and encourage them in line with the spirit of the promise to lift the isolations of the Turkish Cypriots³⁴³.

The pragmatic approach of the TRNC authorities in North Cyprus has brought an effective working relationship between the Commission and the local authorities which both sides are committed to improve the TRNC’s integration into the EU as a step for future settlement of the conflict, contrary to the gaps in implementation in other areas. The TRNC government has acknowledged that introducing EU law in North Cyprus would generate similar institutional and legal systems on both sides of the island and facilitate reintegration into a common state under the EU roof in the future³⁴⁴. In the meantime, it would also increase the quality of life for the Turkish Cypriot people and democratic credentials of the TRNC³⁴⁵. As a result, a considerable number of new legislation was prepared through a EUPSO-EUCC co-work and adopted by the TRNC Assembly. The new legislation is immediately implemented without waiting for a decisive settlement on the island³⁴⁶. In this sense, the Turkish Cypriot authorities often express their content with the EU because it signals that the suspension of the *acquis* in North Cyprus is only temporary.

This section has analysed the legitimisation process through performance by looking at the implementation of the GLR and the FAR. To summarise, it has demonstrated that the EU’s contribution to the long term economic development of North Cyprus through Green Line trade and financial aid has not met the local expectations yet. The potential effects of the GLR have been mostly hindered by the political and psychological attitude of Greek Cypriot government outside the EU’s control. The implementation results of the FAR offer only mixed results for local stakeholders mostly due to the fact that the EU has not found alternative ways easing the complications of North Cyprus’ political status in order to distribute the aid in line with the initial objectives. Moreover, the EU prioritises infrastructure development and has failed to contribute to the most needed areas of economic development from the local point of view. The aim to bring Turkish Cypriots

³⁴³ Ibid.

³⁴⁴ Author’s interview, Erhan Elçin, op cit.

³⁴⁵ Author’s interview, Armağan Candan, op. cit.

³⁴⁶ Author’s interview, Erhan Elçin, op. cit.

closer to the EU also remains very limited according to the local civil society and the higher education institutions. However, the close efforts of the EUPSO and the EU Coordination Centre in North Cyprus have generated the most efficient results in bringing TRNC law in accordance with the EU law.

7.5.2 Lifting the Isolations through Direct Trade

While the EU generated support from local authorities and civil society (despite some handicaps in the implementation) through the GLR and the FAR, the direct trade issue has created local disillusionment and discontent with the EU. The DTR was the second pillar of the July 2004 ‘Comprehensive Measures to End Isolation of Turkish Cypriot Community’. In the post-accession phase, the DTR and lifting the economic embargo on the TRNC has dominated the agenda in North Cyprus.

The rise of the CTP as a single party government and its leader Talat’s victory over his nationalist rivals in the 2005 presidential elections demonstrated once more that the Turkish Cypriot public genuinely supported the EU integration by denouncing separationist policies adopted by the previous nationalist leadership of Denktaş and the UBP. Just as the 2003 general election that shaped around the EU, the victory of the pro-EU CTP in the 2005 general and presidential elections in North Cyprus was related to the EU commitment to lift the isolations of North Cyprus. The CTP defined its priorities as closer integration with the EU before a reunification on the island, democratisation in line with EU norms, search for a final solution and lift of the isolations (Sözen 2005). After the 2005 victory of the CTP thanks to these pro-EU election promises, the Turkish Cypriot political leadership has grown more self-confident with the electoral approval and the novel opportunity to have direct and close relations with the EU. Right after the failed UN efforts, the EU was seen as the only actor that was able to compel the Greek Cypriot government³⁴⁷.

Nevertheless, during the campaign and after the elections, the CTP government and the local media have relied excessively on the novel relations with the EU and the EU’s

³⁴⁷ Survey results from 2005-2006 shows that despite resentment towards the Greek Cypriots have been on the rise, federal solution remained as a preferred solution for the majority on the Turkish side between May 2005 and April 2006. On the other hand, two-state solution was rejected by the 75% of respondents Lordos, A. (2005). *Options for Peace: Mapping the possibilities for a Comprehensive Settlement in Cyprus. A bicomunal survey of public opinion*. Nicosia, CYMAR Market Research Ltd. and KADEM Cyprus Social Research, Lordos, A. (2006). *Building Trust An inter-communal analysis of Public Opinion in Cyprus*. <http://www.CyprusPolls.org>.

commitment to an extent that lifting the restrictions were perceived by the public as a substitute for a decisive solution on the island³⁴⁸. This attitude generated a widespread expectation by the Turkish Cypriot public that the EU commitment for closer relations with the Turkish Cypriot community and to lift the isolations would mean quasi-recognition similar to Taiwan or Kosovo. For example, Fatma Azgın wrote in 2006 in *Yenidüzen* (pro-CTP daily) that

Europe is closer today. The EU-North Cyprus relations are gaining a formal status through the Green Line regulation and the financial aid which would be the first step towards the full implementation of *acquis*. It is no longer possible to see the Republic of Cyprus as a Greek Cypriot state; on the contrary, our state is Europe. Very soon, our EU citizenship would go beyond ID cards and passports”³⁴⁹.

As a result, there was a significant increase in the public expectations from the EU’s role in reconnecting North Cyprus to the world by taking substantive steps to establish direct trade relations.

While there were high public expectations boosted by the CTP government and the President Talat himself, the EU failed to adopt the DTR which has become a major cause of the decrease in the trust in the EU’s willingness to integrate the Turkish Cypriot community into the EU. Local politicians, the non-governmental groups and the public agree that direct trade is essential to lift the isolations of the Turkish Cypriot community. The failure of the EU to adopt the proposal has created a deepening disappointment with the EU. In order to understand the disappointment and the far-reaching consequences of the EU’s failure to adopt the DTR, the local reasoning in favour of direct trade with the EU should be analysed.

First, business groups and trade associations argue that Green Line trade has not restored the volume of trade that North Cyprus used to enjoy before the 1994 ECJ (see fn. 264) decision which ended the EU’s preferential trade relations with the TRNC³⁵⁰.

³⁴⁸ Author’s interview, TDP, February 2012, Nicosia.

³⁴⁹ Yeniduzen, 2006, Fatma Azgın, ‘Avrupa daha Yakın’ [Europe is now closer]

³⁵⁰ Before the ECJ decision, exports to the EC consisted more than 75% of the North Cyprus’s total trade. The court judgement created an increase in administrative costs and export taxation, and thereby, export of North Cyprus to the EU have fallen to 15-20% which affected tremendously the North Cyprus’s income level and agricultural and textile sectors TRNC (2010). The Current State of Affairs regarding the Direct Trade Regulation and the Position of the Turkish Cypriot Side. Nicosia, 9 April 2010, European Union Coordination Centre, in file with the author, collected in February 2012..

According to the local business groups and authorities, instead of serving the aim to contribute to the economic development of North Cyprus, Green Line trade has remained as an external border control mechanism for the EU by allowing the Greek Cypriots (a member state) to determine and restrict the amount and type of the products that North Cyprus can export and to apply political and psychological barriers³⁵¹. In this sense, the local authorities and business groups consider that direct trade between the TRNC and the EU would reverse ‘the unfair decision’ taken by the ECJ to the detriment of the Turkish Cypriot economy.

Second, the local business groups and the authorities claim that direct trade would contribute to the long-term development of the north more than the current financial aid. These groups relies on the EU principles of free trade and regional cooperation for sustainable development to promote their argument. For instance, the EUCC has noted that

[t]he right to development is a ‘universal and inalienable right and an integral part of fundamental rights’ under the UN Declaration on the Right to Development in 1986. This right necessitates and includes the equal right to direct trade, which is essential for the economic development of Northern Cyprus and its integration with the EU³⁵².

Similarly, the KTTO claims that direct trade constitutes a fundamental part of EU norms and principles of freedom to conduct business and the Union shall respect these principles by allowing North Cyprus to trade with the EU. According to the KTTO, the financial aid cannot alone establish a stable and sustainable economic development; free and direct trade has to follow aid³⁵³. In this sense, the KTTO and other business groups and private entrepreneurs expect the EU to act in accordance with the norms it promotes in the world³⁵⁴.

Third, the political authorities and business groups also argue that if they accept the GLR as the only way to trade, they would have to admit the Greek Cypriot claim that direct trade is a political reward and it would distance the Turkish Cypriot side from a conclusive settlement. The Greek Cypriot government claims that the proposal would

³⁵¹ Author’s interview, Kemal Baykalli, op. cit.

³⁵² EUCC (9 April 2010). The Current State of Affairs regarding the Direct Trade Regulation and the Position of the Turkish Cypriot Side. Nicosia, Turkish Republic of Northern Cyprus Prime Minister's Office EU Coordination Centre.

³⁵³ Author’s interview with Kemal Baykalli, op. cit.

³⁵⁴ Author’s interview, Armağan Candan, op. cit.

solidify the status quo; however, the Turkish Cypriot authorities argue that the process of rapprochement would truly start and the elements of mistrust will diminish when the EU fully implements its commitments³⁵⁵. Similarly, for various non-governmental business groups like the KTTO, lifting isolations would not amount to the international recognition of the TRNC or a tacit recognition (i.e. Kosovaisation/Taiwanisation), but the DTR would only contribute to building Turkish Cypriot trust in the Greek Cypriot and EU goodwill. In this sense, the KTTO carries out a public campaign to put pressure on the EU to take steps for approving the DTR. The campaign aims to explain the Turkish Cypriot motivation for direct trade. In this sense, the KTTO stated that

Why do we need direct trade? Simply to ‘trade’ [because] trade is what brought the EU together; trade is what will bring Turkish Cypriots and the EU together; trade is what will bring Cyprus together³⁵⁶.

Finally, non-governmental organisations and local authorities also condemn the EU’s attitude in direct trade as illegal and immoral which clashes with the EU’s own normative stance and the UN request after the referendum. In the aftermath of the referendum, the UN Secretary General has called the international community to ban the international isolation of North Cyprus without prejudicing the UNSC resolutions 541(1983) and 550(1984) (i.e. resolutions that ruled out the TRNC’s declaration of independence by calling the international community to adopt a policy of non-recognition). In relation to this call the then President Talat stated in 2006 that after EU membership, the situation in North Cyprus has turned into a new status quo since the EU denies its initial commitment and the UN call to ban the economic isolation of North Cyprus. In his words, “the EU bears a historic responsibility for restoring equality to the political dynamics in the discussion and negotiation of the Cyprus problem ... [and] should not let the Greek Cypriot Administration to be a stumbling block for the economic development of Turkish Cypriots” (Talat 2006). Similarly, Özdil Nami summarised the local authorities’ argument in the following:

³⁵⁵ UK Parliament (2005). The European Union Dimension Cyprus and the EU. Select Committee on Foreign Affairs

³⁵⁶ In file with the author, collected from KTTO, February 2012, Nicosia.

[the EU] has to convey a clear message to Greek Cypriots that Turkish Cypriots cannot be subordinated to their ill-decision rejecting unification. We do not ask the European Union to punish the Greek Cypriots for their democratic decision in the referendum, but we want to emphasise and re-emphasise that if the EU fails to convey a message [to the Greek Cypriot government] through insisting on the implementation of the proposed regulations [direct trade], future change of leadership in the Greek Cypriot side would not alter their blinded strategy of vetoing every attempt of establishing a federal state on the island³⁵⁷.

Against the background of disappointment with the EU failure to adopt the DTR, Turkish Cypriot groups contend that direct trade issue has been exhausted by the Greek Cypriot government and some EU member states to block Turkey's accession process; and thereby, turning the issue into an inter-state dispute again. In fact, the Deputy EU Minister of the RoC recently stated that "the key for the solution of North Cyprus problem is in the hands of Ankara. The negotiations ongoing with the TRNC President are only procedural and do not have any effect"³⁵⁸.

The RoC continues to block the five *acquis* chapters of the accession negotiations with Turkey. In return, Turkey insists not to extend the Customs Union agreement to the RoC³⁵⁹. Undeniably, Ankara has a key role in a final settlement on the island. However, Turkey's rejection to extend the Customs Union Treaty to the RoC and the Greek Cypriot government's attitude of linking the DTR to the accession process of Turkey demonstrates that Turkish Cypriot demands and needs are again treated as secondary concerns within the EU. According to the local stakeholders, the approval of the DTR is about granting Turkish Cypriots their legal rights stemming from their citizenship status. Linking the DTR with Turkey's tough relations with the EU foremost affects the Turkish Cypriot

³⁵⁷ Özdi Nami, personal web page, <http://ozdilnami.net/category/kibris-konusu/>.

³⁵⁸ Kıbrıs, 17.05.2013, 'Muhatabımız Ankara'.

³⁵⁹ The post-accession period of Cyprus is marked by the problematic relations between RoC by Turkey rather than a search for a comprehensive settlement. Since there is no recognition between the two countries, Turkey does not extend the Customs Union Agreement to the RoC which means that Turkey's ports remain closed to the Greek Cypriot vessels and aircrafts. The issue has become a mutual blame game between Turkey and the RoC. Turkey claims that first the EU should honour its commitment to lift the isolations of North Cyprus, and then Turkey would immediately implement the Agreement vis-à-vis the RoC. On the other hand, the RoC considers the DTR, customs union agreement and Turkey's EU accession as one single issue. For instance, it has vetoed the opening of additional chapters for negotiations in Turkey's candidacy and declared that none of the open chapters would be concluded, if Turkey does not extend the Customs Union Agreement to the RoC Tocci, N. (2007). *The Missed Opportunity to Promote Reunification in Cyprus. The Cyprus Conflict: Looking Ahead 7-8 May 2007*. Eastern Mediterranean University, Famagusta, Cyprus, Tocci, N. (2010) "The Bffling Short-sightedness in the EU-Turkey-Cyprus Triangle." *Istituto Affari Internazionali Working Papers* 10-21..

economy more than Turkey or the RoC. The KTTO mentioned this widespread concern in the letter addressed to Martin Schulz:

The Cyprus conflict and the future of the Turkish Cypriots have been wrongly placed in a framework driven by Turkey-Greek Cypriot relations and Turkey-EU accession process. The Turkish Cypriots are forced to suffer because of the well-known EU-Turkey-south Cyprus triangle. The European Council resolutions of April 2004 have initiated a process of its own for Turkish Cypriots. This should be a process of mutual understanding, dialogue and integration between Turkish Cypriots and the EU. The Turkish Cypriots' own process and future in the Union should not be allowed to fall victim to the separate processes of other actors³⁶⁰.

The inter-institutional disagreement within the EU regarding the approval of DTR (Section 6.2.3), the perceived inability of the EU to prevent the Greek Cypriot government's tactical manipulation of EU decision-making and the constant disregard for the Turkish Cypriot legal, political, economic and moral reasoning damages the EU's overall credibility for Turkish Cypriots in the post-accession period. The consequence is faltering support for the EU in North Cyprus due to 'unfulfilled demands', which is felt at different fronts in relation to the EU's authority in the conflict resolution process. Although the lack of progress in terms of direct trade is mostly due to the Greek Cypriot government's uncooperative attitude and mistrust against Turkey, the Turkish Cypriot authorities and the public criticise the EU's lack of engagement with North Cyprus which is interpreted as passively siding with the Greek Cypriot side. The disappointment as a result of unfulfilled expectations in relation to the DTR and the continuing isolations has various consequences for the EU's overall authority in the conflict resolution process.

First, looking at the local leadership's attitude, convinced by the turf wars between various EU institutions and the lack of ability of the EU to overcome the Greek Cypriot veto, policy change towards the EU was most visible in the TRNC-EU-UN triangle. The EU's involvement in the UN peace building process has become unacceptable for the Turkish Cypriot government. When direct negotiations started after a four year break in 2008, the Turkish Cypriot leadership (the pro-EU CTP government) declared that North Cyprus was reluctant to grant the EU power over the UN process. The reason is that the

³⁶⁰ KTTO letter to European Parliament President Martin Schulz, op. cit.

EU was increasingly perceived a biased actor in the aftermath of the accession even by the pro-EU local voices, whilst the UN was still accepted as the main and final destination for brokering a settlement between the parties by the Turkish Cypriot leadership (Ziegler 2007). For instance, Mehmet Ali Talat stated that the EU could not have any political role relating to the main terms of a settlement; the Turkish Cypriot side's main hope was to see EU honouring its promise to lift the isolations first (Uras 2008). In this sense, Talat noted that the 'Turkish Cypriot people should not be subject to another unfair treatment',³⁶¹. As a general attitude, the Turkish Cypriot leadership (both the previous pro-EU CTP government and the current nationalist UBP government) prefers the EU not to take a direct interest in the UN peace process because the EU is not seen as a neutral actor that could engage with the Turkish Cypriot demands (Uras 2008). Perhaps more surprisingly, the Deputy Head of the Turkish Cypriot Taskforce Georg Ziegler also share the Turkish Cypriot concerns about the role of the EU in the conflict resolution process at the UN level. In the words of Ziegler,

Despite what you hear in some quarters, the EU is not in a position to act as neutral broker of a future comprehensive settlement. The leader of the Greek Cypriot community in the negotiations on a comprehensive settlement under UN auspices is at the same time the Head of State and Government of the Republic of Cyprus as a Member State of the European Union. By this fact alone the EU is inherently biased, if one likes it or not. Therefore the EU's role is mainly to support the UN in reaching a settlement and to make sure that the settlement is reconcilable with EU membership (Ziegler 2007)

As a result, the Steering Group prefers to keep a low profile. After the high level meetings between the leaders of both sides, the Steering Group issues a brief note that 'important progress has been made by the leaders of the two communities' without further detailing the expectations and the policy of the EU regarding the peace process³⁶². Such declarations are much reminiscent of the Council Summit conclusions which were monitoring reports of the UN negotiations in the pre-2004 period, rather than revealing a significant qualitative change in terms of the EU's ability and willingness to shape the peace process.

³⁶¹ Halkin Sesi, 27.04.2004, 'Talat: Hedefimiz, Kıbrıs sorununun Cözümüdür' [Talat: Our aim is the Resolution of Cyprus issue]

³⁶² See <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/430&format=HTML&aged=0&language=EN&guiLanguage=en>

Similarly, the personal representative of Barosso keeps a low profile of observing and advising regarding the EU matters of a future settlement³⁶³. As a result, the current engagement of the EU in the UN-led negotiations does not go beyond providing advice on technical matters regarding the future of a united Cyprus as an EU member.

Second, the Greek Cypriot government's insistence on the so-called 'European solution' which is promoted as an anti-thesis of a 'UN solution' has entrenched the Turkish Cypriot scepticism towards the EU's involvement in the peace process. The Greek Cypriot support for a 'European solution' envisions the re-incorporation of the north into the RoC structures according to the main freedoms of the EU, i.e. freedom movement, settlement and property (Stavridis 2006). According to Faustmann (2010), in the Greek Cypriot perception, 'the European solution' equals to "Greek Cypriot majority rule to realise the democratic principle of one citizen, one vote; respect for human rights, ensuring the full return of Greek Cypriot properties and refugees; and the full implementation of the EU's *acquis communautaire* without permanent derogations". Despite the fact the EU claims that a UN solution that is mutually agreed by both sides would be accepted by the Union, as Faustmann (2010) notes, the Greek Cypriot perception of European solution aims to ensure the return of Greek Cypriot properties and refugees in the long term and the full implementation of the EU's *acquis communautaire* without permanent derogations.

As a counter-argument, the Turkish Cypriot leadership claims that a 'UN solution' is based on bi-communality and bi-zonality that requires some derogation from EU freedoms would ensure the Turkish Cypriot identity and autonomy would not be overridden by the Greek Cypriot majority. According to the Turkish Cypriot view, the UN solution foresees political equality of communities, self-rule and physical separation, while the EU solution would dilute the territorial autonomy and degrade the Turkish Cypriot community's status to a minority in the long term. As the Greek Cypriots insist on the full implementation of the *acquis* and reject permanent derogations as outlined in the Annan Plan, the Turkish Cypriot community rejects an active role for the EU in the peace process.

Third, the false dichotomy between a European solution and a UN solution has affected the public opinion negatively by reviving the Turkish Cypriot perception of the EU as a pro-Greek Cypriot actor. The Turkish Cypriot public is persuaded that Greek Cypriots would continue to see the island as overwhelmingly Greek where Turkish

³⁶³ Author's interview with Ahmet Sözen, op cit.

Cypriots constitute only a minority. The common belief among the public is that under the EU freedoms, Turkish Cypriots would never become an equal constituent of the common state and be granted their own territorial autonomy “as long as the EU turns its back to the realities of Cyprus and supports the Greek Cypriot claims”³⁶⁴. As a result, many Turkish Cypriots state that the EU do not have expectations from the EU in terms of future settlement, since the RoC ‘as a member of the EU is more powerful than before and can achieve a better deal’ (Cyprus-forum, 27/05/06). The EU promise to lift the economic isolation of North Cyprus is seen as ‘a trick of the EU’. A considerable number of people claim that instead of seeking a political solution, the EU has ‘invented an economic recognition’ ‘just to console Turkish Cypriot frustration of being left outside’³⁶⁵.

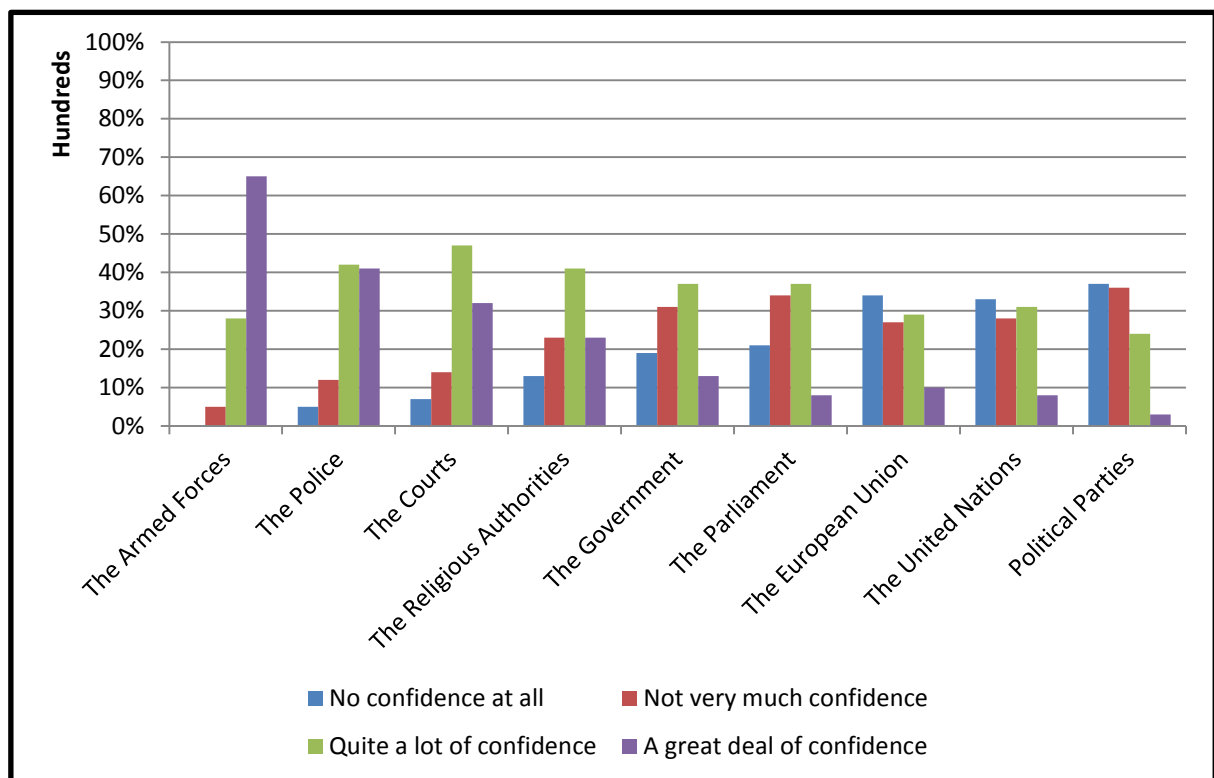
According to Agapiou-Josephides (2011), the increasing disillusionment and frustration with the EU’s failure to lift isolations and establish direct trade have shifted the patterns of euroscepticism among Turkish Cypriots. While in the pre-accession period scepticism towards the EU was driven by ideological reasons at the nationalist elite level, since 2005 it has taken a popular or mainstream turn affecting the whole public regardless of political affiliations. General public opinion surveys also confirm the general pessimism about a future solution and a lack of trust in the EU’s potential role in bringing an acceptable solution. Only after four years of accession, a survey conducted in North Cyprus has revealed that Turkish Cypriot public’s trust for the EU has decreased considerably. Compared to Greek Cypriot trust (71% stated ‘quite a lot’ or ‘great deal’ of confidence towards the EU), the 34% of Turkish Cypriots expressed ‘no confidence at all’ and 27% ‘not very much confidence’ in the EU (Kaymak, Lordos et al. 2008).

Fourth, the public scepticism towards the EU after the RoC’s membership has also increased a widespread lack of belief in the possibility of reaching a final settlement and constructing a common future for Greek and Turkish Cypriots within the EU. In other words, the pre-accession firm belief in the possibility of co-existence under a common state across the socio-economic factions of the Turkish Cypriot society has been replaced by pessimism that political and physical separation will persist (UNFICYP 2007). According to the two recent public surveys conducted in 2008 and 2011, the pessimism is widespread among Turkish Cypriots regarding a prospect of a comprehensive settlement on the island (Kaymak, Lordos et al. 2008; Sözen 2012). Moreover, the 2007 UNFICYP

³⁶⁴ Vatan, 7.09.2007, Erten Kasımoğlu, ‘Rum Yunan Gerçeği ve Kuzeydeki mekanizma’ [Greek Cypriot reality and Mechanism in the North]

³⁶⁵ Halkın Sesi, 03.05.2004, Ismet Kotak, ‘Okuyucunun Kaleminden’ [From the readers]

survey showed that Turkish Cypriots have become less interested in bi-communal contact (UNFICYP 2007)³⁶⁶. As seen in the following graph, contrary the conflict resolution actors (EU, the UN and the political authorities), the armed forces and security institutions are much more trusted by an ordinary Turkish Cypriot as a reflection of the renewed security concerns and the increasing distrust in a future common state.



Source: the data is taken from Kaymak, Lordos and Tocci, 2008.

Under these circumstances, unsurprisingly, the UN negotiations which re-started in 2008 failed to generate a widespread public interest. For example, the coverage in the local press of the high level meetings between the presidents of the two sides was either weak (i.e. reporting the start of high level negotiations as a ‘meeting between two leaders’) or depicted a pessimist view about an outcome. For instance, the daily *Kıbrıs* stated that ‘there is no hope’ for negotiations, ‘expecting an outcome is futile’ and ‘negotiations give the public vain promises’³⁶⁷. Kaymak, Lordos et al. (2008) reveals that the Turkish Cypriot

³⁶⁶ In this sense, Greek Cypriots’ lack of interest in bi-communal contact should also be taken into account since considerable majority of Greek Cypriots cross the buffer zone to do pilgrimage or visit old hometown rather than interacting with Turkish Cypriots

³⁶⁷ *Kıbrıs*, 04.09.2007, Anıl Işık, ‘5 Eylül’den Beklenti Yok’ [There are no expectations from 5 September]; *Kıbrıs*, 5.09.2007, Sonuç Beklemek Faydasız ve halka boş ümit vermek’ [Waiting an outcome is futile]

public expects that the institutions in the north should be brought closer to the EU institutions and norms with a view to become active participants in the EU institutions, as a sign of commitment and goodwill on the side of the EU.

Finally, as an outcome of the decreasing trust in the EU, the pro-EU actors' in North Cyprus have lost public support. Today, bi-communal activities are held by a small and relatively isolated group again. With the 2009 Parliamentary and the 2010 Presidential elections the nationalist party UBP gained victory over the CTP. The head of the Management Centre-a local NGO working on bi-communal projects and training- Bülent Kanol notes that local civil society today suffers from a relative isolation since the referendum because their struggle to motivate the society in favour of EU integration and reunification are seen worthless and trivial by the wider society³⁶⁸.

To sum up this section, the analysis legitimization process of the EU through the DTR and the Turkish Cypriot expectations regarding the lift of their isolations reveals important findings about the EU's role and authority as a conflict resolution actor. The Turkish Cypriot public's dissatisfaction with the legal and political impediments to establish direct contacts and trade relations with the EU has created more foundational problems of support that goes beyond disappointment with the inefficient performance of the EU. There is a considerable reluctance on the side of the Turkish Cypriot government and the public to involve the EU as an actor in the peace process. The reason is the initial high expectations to re-connect with the world and the following disappointment with the EU's ineptitude to prevent the paralysation of EU decision-making in relation to the Turkish Cypriot community due to the Greek Cypriot veto. However, the disillusionment with the continuing territorial, economic, socio-cultural and political isolations on Turkish Cypriots have gradually discredited the EU, the pro-EU parties and non-governmental organisations and the overall the support for a EU role in conflict resolution in the post-accession phase³⁶⁹.

7.6 Analysis: Legitimation and Authority of the EU in Cyprus conflict Resolution

Chapters Six and Seven have analysed the EU's legitimization process sourced from local stakeholders support (diffuse and specific) for the EU framework and specific policies.

³⁶⁸ Author's interview, Bülent Kanol, op. cit.

³⁶⁹ Author's interview, Erol Kaymak, op. cit.

These chapters have aimed to explain how different reactions would constrain and/or enable the EU's intended conflict resolution agenda, as discussed in the previous chapter. This analysis section brings the findings together to discuss the impact of the legitimisation process in constraining or enabling EU authority to facilitate conflict resolution and to analyse the reasons of the EU's failure to truly generate authorisation from local actors when engaging with the Cyprus conflict, although it provided the best incentive-membership- to change the behaviour of local actors.

The findings from the legitimisation process of the EU have demonstrated that the EU as a constellation of norms is subject to a dynamic process of local adaptation through which the EU is reinterpreted, its presence and actorness is modified according to pre-existing local normative framework and priorities of the local actors. In terms of legitimisation through norms/principles, the EU's normative and moral justification has displayed alteration through time and between various EU institutions. In the pre-referendum period, the EU has set up its normative framework on three arguments: (i) territorial integrity of Cyprus and the illegitimacy of the self-declared TRNC in line with the international practice (ii) the EU's role model as a peace project and membership offer as a catalyser for a balanced and fair solution between Turkish and Greek Cypriots (iii) moral responsibility towards the recognised RoC. Whilst these principles seem consistent to form a strong normative framework, political bargains, diplomatic threats and package deals and the EP's harsh stance on the Turkish Cypriots (due to the then leaderships intransigence during the UN negotiations), the EU could not rely on a consistent set of arguments for its normative agenda, contrary to Kosovo. The alternative arguments/actions undermined the Commission's normative justifications.

As a result, the EU inadvertently gave the hardliners an opportunity to escalate the political and psychological division on the island and to pursue the tough state ideology that seeks independence throughout the 1990s. The then government contested the acclaimed EU catalyser by discrediting the inability of the EU to resist the Greek threats and by pointing to the lack of normative consistency of the EU's approach in order to maintain support for isolation and independence claim from the domestic constituency. The leadership also utilised the same claims to pursue an oppression policy to marginalise the pro-solution opposition voices. During the pre-accession years, the nationalist leadership claimed that the EU served only to the Greek Cypriot interests by overtly allowing 'enosis from back door'. Resistance and contestation of the hardliner groups in North Cyprus has showed that when the perceived intentions of the EU is not congruent

with the dominant local normative/ideological framework and the prior beliefs and practices, the local leadership is likely to have the upper hand to oust the EU normative discourse by discrediting the normative agenda as foreign, partisan and interventionist.

On the other hand, the findings of legitimization through ideas/ideologies of local groups have demonstrated that when local priorities and ideologies are not uniform, the EU framework is likely to be adapted in accordance with the views promoted by alternative voices and serve as a further divisive factor at the local political stage. The case of North Cyprus has showed that as the membership became an approaching prospect, the previously-isolated pro-peace local actors were provided with an appealing opportunity to disperse their message to the public in favour of reconciliation and help the EU to develop societal diffuse support. Throughout the accession years, Turkish Cypriot civil society became strong actors to mobilise the public and expanded the scope of their activities from a few bi-communal events to mass demonstrations. The initiatives of civil society were supported by the opposition and small political parties, trade unions, intellectuals and business groups. In the early 2000s, the EU became a reference point to transform the local political context in favour of the pro-peace movement as the only way to discredit the monopoly of the nationalist elite and curb the influence of Turkey on the economy and politics of the TRNC. The EU framework was promoted as a window of opportunity for the Turkish Cypriot distinct identity to be recognised and protected, as an alternative to seeking independence and as an end to their isolation and marginalisation within the international community.

In this sense, one cannot deny that without the pre-existing local forces or “insider proponents”, it would be unlikely for the EU with its inconsistent normative framework to generate the Turkish Cypriot support given the anti-EU campaign of the then nationalist leadership. Local actors have borrowed and reframed some EU norms in order to become a political force in North Cyprus politics. In doing this, the isolated local peace proponents established their value to the local audience through the EU framework and enhanced “the appeal of some of their prior beliefs and institutions” (Acharya 2004:239).

In relation to legitimization through procedural/participatory qualities, the analysis has illustrated that the EU does not possess a direct top-down control on local decision-making since it is not engaged in formal state-building or democratisation in North Cyprus. The political and legal constraints obliges the EU to engage with local actors through alternative channels which have generated more democratic, open and cooperative relations between the EU and local civil society compared to a technocratic and executive

mandate in Kosovo. Moreover, thanks to the pragmatic engagement with the EUCC after the referendum, there are direct consultative mechanisms which allow the participation of local stakeholders into the policy making and implementing, even though the EU strictly rejects political recognition. This way the EU has generated trust and cooperation from the local authorities.

However, the Turkish Cypriot community is still trapped in between two extremes as citizens of the EU and as inhabitants of an unrecognised/illegal entity, simultaneously. Direct and unhindered mechanisms of deliberation and representation are still absent in their relations with the EU. This absence has aggravated the sense of isolation among the Turkish Cypriot non-governmental groups and the public, as shown in recent demonstrations demanding direct representation at the EU institutions and lift of the economic and cultural isolations.

Finally, in terms of legitimation through performance, the findings suggest that the EU has so far achieved a limited number of objectives mostly due to the inter-institutional disagreement and legal constraints. After Turkish Cypriot community voted positively for the Annan Plan, the EU turned to embrace Turkish Cypriots to promote North Cyprus's integration into the EU through alternative means. The whole domestic appeal of the pro-EU government and the Presidency in the post-referendum years, i.e. after the 2005 elections, were built upon the promise to integrate into the EU and the international community. However, the commitment to remove the isolations of North Cyprus has not been fulfilled due to the Greek Cypriot political concerns.

As a result of the failure to realise the local expectations in relation to lifting isolations, the local perception of the EU has considerably altered even among the pro-EU actors. Today, the EU is perceived as a partial actor favouring the RoC and behaving immoral by not honouring its commitments to Turkish Cypriots. The traumatic effects of the failure of the EU to lift the isolations of Turkish Cypriots can be felt in every aspect of social and economic life in North Cyprus today. Continuing isolations have generated resentment and a rising frustration with the continuing isolations within the Turkish Cypriot public.

Overall, the findings from the legitimation process of the EU in North Cyprus have demonstrated that the EU as a constellation of norms is subject to a dynamic process of local adaptation through which the EU is reinterpreted, its presence and actorness is modified according to the pre-existing local normative framework and priorities of the local actors. Legitimation and local cooperation with the EU cannot be understood outside

the context of the local political culture, priorities and expectations. North Cyprus case has demonstrated that local agency is seminal in shaping the authority of the EU as an actor of policy making and implementing. In spite of the fact that the EU denied right to self-determination to Turkish Cypriots and has so far failed to have direct political relations with North Cyprus, local actors in North Cyprus continue to ‘pressurise’ and ‘pull’ the EU to engage with Turkish Cypriot demands more directly and to respond to their expectations.

The North Cyprus case has also showed that unfulfilled promises could degrade not only the intended efficiency of the EU policies but also the broader support for the EU in a conflict resolution process. Although the EU has so far maintained cooperation from local actors, recently its authority has become dependent on the pragmatic engagement of the Turkish Cypriot business groups and authorities rather than normative acceptance of the EU as a key actor of conflict resolution. Given the high levels of resentment and disappointment due to the issue of continuing cultural and economic isolations and discrimination against Turkish Cypriots as EU citizens (i.e. lack of representation), there are far-reaching consequences of the decreasing levels of trust in the EU. First, there is contestation from the local authorities against the EU’s potential role in UN peace process. While the EU has to accommodate a future settlement on the island, the Union is not closely involved in the UN process or it does not mediate between the parties directly like in Kosovo. More importantly, there is a widespread false dichotomy created by the Greek Cypriot government between a European solution (all freedoms are accepted) and a UN solution (some derogations in freedom of settlement and property are accepted to preserve bi-communal/zonal features of a common state). This dichotomy has also contributed to the Turkish Cypriot resistance against the EU’s involvement in the peace process.

Second, the pro-solution/EU political parties and civil society organisations have also lost support with the increasing public disappointment. The domestic politics of North Cyprus is again dominated by increasing populism among the political parties, the return to the nationalist rhetoric and a search for protection from Turkey. Moreover, the endless riots against the government due to the grave economic situation, the growing distrust towards domestic politicians as well as the Greek Cypriot government, and finally the deep pessimism about a future settlement are all associated with the EU’s faltering promise of ending the isolations in North Cyprus.

Finally, the analysis of the legitimisation process have revealed that if the current level of mainstream distrust of the EU and pessimism continues, the EU would host a

divided country as a member state for a long time. The current division of Cyprus does not support the international image that the EU wants to promote as a zone of peace where the member states solved internal and border conflicts. The TRNC is neither outside the EU borders nor inside, but constitutes the very border itself. The EU engages in North Cyprus through a mixture of membership rights, candidateship conditions. However, given the widespread nonchalance towards Turkish Cypriots' expectations, it is doubtful how exactly the EU can sustain the pragmatic support of Turkish Cypriots in the future and to what extent the EU's limited engagement can be fruitful to revive the pro-peace movement in North Cyprus.

Part IV

Chapter Eight – European Union, Conflict Resolution and Legitimation

This comparison chapter offers a summary and a synthesis of the main ideas developed in this study of the EU's legitimation process as an ideational and normative framework and as a policy actor devising and implementing policies in Kosovo and Cyprus conflict resolution. The chapter synthesises the findings of the individual case analyses in Part II and III and examines the implications of the process of legitimation in light of the EU's own justifications and prominent local ideas, norms, perceptions and attitudes regarding conflict and conflict resolution. The chapter discusses how 'the local' affects the EU's authority in conflict resolution. In doing so, it identifies the prominence and persistence of 'the local' as a key feature of EU conflict resolution.

The first section briefly discusses the conceptual findings and the contribution of the thesis to the theorisation of legitimacy/legitimation beyond the nation-state. The second section compares the main findings and patterns of the local-EU relations by summarising the four the pathways of legitimation. The implications of the two case studies are cross-examined in order to understand the similarities and contextual differences in terms of the EU's engagement with the Kosovo and Cyprus conflicts. The last section turns to evaluate the local resistance in light of the findings.

8.1 Legitimation and EU Conflict Resolution

As noted in the introduction, there is a key deficiency in the current EU literature on the role of the local agency when discussing EU conflict resolution. This deficiency relates to the EU's over-reliance on the self-image as a normative actor and conviction that norms and principles that guide the EU conflict resolution engagements are universal, benign, and ergo legitimate. As further discussed in Chapter Three, this assumption is also echoed across the scholarly community when explaining the development and current practices of conflict resolution (and their deficiencies/problems). While the EU is analysed by looking at its declarations, actions, policies, structural deficiencies, the actual audience, i.e. the local, is mostly treated as a passive actor, destined to internalise what the EU offers in long

term thanks to the socialisation of the local leadership and communities within the universal norms and values system that is promoted by the EU. The short term rejection and non-compliance by the local is explained through a rationalist perspective which links the resistance to a lack of sufficient incentives. The existing research has so far failed to approach the 'local' as an autonomous agency of conflict resolution with needs, expectations, concerns and opportunities, except a few recent studies.

This thesis has made an argument that the existing literature demonstrates that local addressees have power to impact the EU conflict resolution process; but, the literature fails to explain how, why and under what conditions the local impacts the process. More importantly, the thesis has argued that local resistance and challenges can be interpreted differently, if we conceptualise the local as an active and independent agency with different ideas, norms and expectations from the EU.

Drawing on the state of the art discussions in the broader conflict resolution field, this thesis has argued that it is important to understand the local in order to enhance our understanding of the EU as an actor of conflict resolution. The local can also help us go beyond the one-sided normativeness, distinctiveness, and ergo the 'unspecified general legitimacy' claims (Bicchi 2006) in the literature. With these premises in mind, the analytical framework of this thesis has provided a useful concept (legitimation) to analyse the EU's self-justifications to normativeness and policies vis-à-vis the addressees of these claims, justifications and policies by conceptualising the EU and the local groups as active agents of the legitimation process.

The analysis presented in the thesis provides a useful ground to reflect on what is legitimacy and legitimation, especially in relation to non-state governance and decision-making in global/transnational politics. In political theory, as Chapter Two has discussed in detail, legitimate authority is central for a government because it "internally motivate[es] individuals to defer voluntarily to legitimate authorities" (Hegtvedt and Johnson 2009: 380). Legitimate authority provides a government with an entitlement to take measures including the use of coercive power to ensure obedience from the addressees. As Flathman (1980: 29) suggests legitimate authority stands for a "substantial agreement among the members of the association about those very propositions whose rejection commonly brings coercion into play". Therefore, legitimation process in domestic politics is always concerned with a collective appraisal to provide a consensual right and support for the policy-makers to implement their agenda, even through coercion, and to ensure compliance.

Nevertheless, in this understanding, the authority in question possesses the credentials and resources of a formal-legal authority whose borders are defined by a constitution. In the conflict resolution field, where the EU engages in governance -not government- in relation to a limited number of issue-areas and for a limited period of time, it is not possible to conceive a formal-legal authority relationship similar to the one between a government and its citizens.

Given the differences between the nature of decision- and rule-making by a government and the EU as a conflict resolver, what exactly a discussion on legitimacy and the sources of legitimation for a non-state actor can teach us about the authority and characteristics of the EU in the conflict resolution field? This thesis broadens our understanding of EU conflict resolution in two ways. First, it helps us conceptualise the EU's authority and power in the conflict resolution field as a *relational authority*. Instead of conceptualising the EU's power to secure local cooperation and compliance through the presumed universality and benevolence of norms and objectives that the EU promotes, for a relational authority, "obligation [to obey] does not follow from the office of the ruler but from a bargain between the ruler and the ruled" (Lake 2009: 334). This bargain sets the essence of the relationship between the EU and local groups. Moreover, the bargain is not always based on legal prescription or approval, but on mutual agreement, formal and informal temporary arrangements between the EU and local stakeholders. The characteristics of a relational authority are "contingent on the actions of both the ruler and the ruled. ... Without the desired social order, the ruled have no reason to subordinate themselves voluntarily to the commands of the ruler, and without the compliance of the ruled, the ruler lacks the endogenous means to produce the social order" (Lake 2009: 334-5).

Therefore, the EU can exercise limited coercion vis-à-vis local actors; and if it provides too little social order than agreed, the locals can withdraw support and challenge the EU. There is much less moral allegiance and compulsory compliance in the legitimation relationship between the EU and the recipients of its conflict resolution policies (despite the fact that the EU emphasises universality and morality embedded in its objectives and actions). In other words, most of the time, for local actors, whether the EU is normative, ethical and moral, or not is not an important aspects of their relationship with the Union when it comes to cooperation and compliance (otherwise, local declarations and statements about (the lack of) the EU's normative or ethical action are abundant when raising a counter-normative claim, as the empirical chapters have showed). However, this

does not mean that the societal authority that can be generated through legitimation is less convincing for local addressees to cooperate and comply with the EU.

Second, this thesis also helps us locate the deficiencies and persistent problems of EU conflict resolution within the dynamics of the EU-local relations, the push and pull between the EU and ‘the multiple local’. In doing so, it complements the existing research in the EU literature which explains the problems of EU conflict resolution through material and structural deficiencies of the EU. The study of the legitimation process informs us about the local support, ideas and attitudes. The legitimation of the EU as a conflict resolution actor looks at the dynamic and demanding balancing act between various local groups and the EU objectives and norms as well as EU actors and policies. The EU as a framework and policy actor on the ground is constantly recalibrated and adjusted through a dialogic process between local actors and the EU.

One of the claims of this thesis has been that both ‘the local’ and the EU are composed of multiple entities. This insight has implications for how we understand the EU’s persistent problems ensuring local cooperation and achieving the main objectives of conflict resolution. The EU has to deal with a fragmented audience in terms of not only ethnicity, but also, ideology, strategy and sources that are available to affect the EU conflict resolution process. As a result, the institutional make up and normative justifications of the EU are assessed by a diverse audience in a conflict case. While EU decision-making powers and implementation instruments are seen too intrusive for some actors such as the local government and the established political elites, other local groups, which are disadvantaged by the status quo under the incumbents, might push the EU to deepen its engagement and devise new policies to deal with the ‘real’ problems on the ground. For these local groups, EU conflict resolution fails to genuinely deal with the problems that enhance or prolong the conflict, contrary to its normative stance and objectives. This insight highlights the centrality of coherence or incoherence of the local groups for EU conflict resolution, rather than strong EU incentives or the local acceptance of the EU as a normative actor.

Moreover, this thesis has showed that the locals do not see the EU as a uniform actor. Local groups are well-aware of the various and often contradictory faces of the EU. From the local groups’ point of view, the EU promises to contribute to political, economic and social development towards EU integration, but at the same time, offers incremental therapeutic steps through a neutral and technical approach. The EU both supports local ownership and encourages local governments to adapt the EU agenda at their own pace

and capabilities, and at the same time, withdraws the benefits, if it sees the local progress is below the EU expectations. As a result, usually, the local groups express approval or challenge in two forms: for the ground institutions and policies specific to the conflict and for the EU as a general framework of conflict resolution built on norms and ideas. There are situations when the relevant population shows assent, opts for absence for various reasons, or they display ‘stoical unconcern’ towards the EU representations on the ground (Cipriani 1987). For instance, while normative agenda of one EU institution is supported, the other one’s normativeness might totally receive agnostic responses from local actors since they are more interested in its performance or even desire it to leave the ground since its practices are seen inefficient or aloof from the needs of the public.

The analytical perspective of this thesis has enabled us to focus on the heterogeneity of the local (in terms of ideas, expectations and needs) and the differences between EU institutions (in terms of institutional and material capacities and their relationship with various local groups). Overall, the thesis has sought to contribute to the understanding of the EU’s power and authority in conflict resolution as a relational authority and to the prevailing explanations in the EU literature regarding the deficiencies and problems that the EU often come across in its conflict resolution engagements by bringing an alternative analytical perspective (the local-EU relations, instead of institutional and material capabilities of the EU). This perspective is based on a dialogic process of legitimation founded on the independent agency of ‘the local’ and its complex relations with the EU. The conditions and paths of this dialogic process and the ways in which local support for the EU framework and policies affect the social power (or authority) of the EU in different ways are explained in the next section through a comparison of the Kosovo and North Cyprus cases.

8.2 Explaining ‘the Local’ in the Legitimation Process

This thesis departed from an initial assumption that given the multiplicity of the local, there are different paths of local adaptation of the EU norms and different levels of support for EU policies on the ground. Rather than a simplified understanding of the local agency which prevails in the EU conflict resolution literature, the thesis has argued that the local is complex and varied. Based on this argument, it has sought to develop a theoretically informed explanation for the alternative forms of action and adaptation available to local groups without ignoring or prejudicing against the EU justifications, ideas and concrete

actions. The thesis has employed an analytical perspective of legitimation that has allowed the exploration of the intersubjective and dynamic relationship between the EU and local templates. Relying on the existing theorisation of legitimacy/legitimation in political theory and the global governance literature, the thesis has identified four pathways of legitimation: legitimation through (i) norms and principles, (ii) local ideas and ideologies, (iii) procedural and participatory qualities, and (iv) performance.

As discussed in Chapter Three, the legitimation process has three potential outcomes:

- Increased acceptance or reduced resistance to the EU framework and policies due to an alteration of the local template.
- The EU is compelled to modify its normative framework or specific policy(ies) or instruments in line with the persistent local template.
- The EU is discredited as an actor of conflict resolution followed by an authority crisis, if the EU does not respond in a way to address local critical agency and challenges.

The findings from the two cases suggest that the first two outcomes are widely observed in the Kosovo and Cyprus cases, at the same time, as discussed below, while the third outcome –an overall discrediting of the EU due to a general crisis of credibility and authority- is not evidenced. However, it is worth highlighting that the thesis has demonstrated different reasons for local acceptance or rejection as well as ‘grey areas’ where the EU framework or one of its policy-making actors on the ground face fundamental challenges to its authority and credibility. This section discusses the reasons of these outcomes and the impact of the legitimation process on EU conflict resolution by looking at the each pathway of legitimation.

8.2.1 Legitimation through Norms/Principles

This thesis has demonstrated that norms and principles play an important role in the legitimation process. Norms and principles allow the EU to define its role and to assert its identity as a conflict resolver in a specific case of conflict. Usually, the EU’s way of utilising norms serves as a source for self-justification by setting the ideal and normative

agenda of conflict resolution through principles, international law and norms as discussed in Chapters Four and Six. Norms and principles that are promoted by the EU also condition the available policies and actions on the ground.

In the Kosovo and Cyprus conflicts, the EU has generated a set of principles based on universal norms of peace and human rights, and its own vision of liberal democratic state-building on the one hand, and what international principles dictate in Kosovo and Cyprus, on the other in order to justify its forthcoming (or increasing) conflict resolution engagement. In this sense, we can claim that the Union closely follows a universalist agenda emphasising respect for human security, democratic institutions, sustainable economic development, transitional justice and effective multilateralism as an actor of conflict resolution. These ideas that the EU promotes are defined according to “more external than internal criteria” (Andersen 2012: 207). Yet, the EU promotes this set of norms and principles with a constant reference to its own values and experience. The norms and principles that shape conditionality and the EU integration prospect are usually promoted as a responsibility to expand the EU model. For instance, when it comes to convincing the local addressees in conflict zones to cooperate and adopt these norms and ideas, the EU often refers to its own history of reconciliation and peace.

To take a few examples discussed in the empirical chapters, in Kosovo, the EU aims at generating democratic institutions, economic development, civil society culture, and minority rights based on the EU-role model in order to enhance the self-sustaining capacities of the nascent local institutions with an aim to bring a decisive solution to the existing ethno-political controversies among Serbs and Albanians. In Cyprus, the enlargement prospect was promoted as a moral responsibility, a distinctive incentive for local actors and an unprecedented conflict resolution tool for bringing a balanced settlement.

The thesis has argued that consistency is a key factor in order to generate local support for the norms and principles more than the universalist scope of the EU’s normative framework. Otherwise, credibility of the EU framework would be subject to local criticism and challenge. In Kosovo, despite the disagreements among the member states regarding the independence issue, the EU promotes a consistent set of normative arguments since the Vienna negotiations. More importantly, the EU’s normative framework, despite its interventionist liberal peacebuilding logic, has been justified vis-à-vis the local audience through a long-term EU commitment linked to final membership to facilitate a sustainable political and economic development as well as a clear emphasis on

local ownership to detach the EU from the previous international administration. In short, at the discursive level justifications, the EU delivers a clear and consistent message to local groups in Kosovo. In this sense, the EU's norms and principles are considered congruent with the overarching local priorities (ownership, internal and external sovereignty, international recognition). Under these circumstances, the local political elite did not see the EU norms and principles as a challenge to their priorities and power and the incumbents were able to declare support for them without risking domestic criticism.

On the contrary, in North Cyprus, the EU has failed to promote itself through a consistent set of principles and norms, especially in the pre-accession years. The analysis has showed that this inconsistency was mostly due to first, the EP's position emphasising the importance of the recognised statehood and the EU's moral responsibility towards the RoC and second, the presence of the Council as an assertive actor of conditionality altering and shaping the enlargement process through package deals and strategic bargains. While the Commission promoted the EU as a catalyser and role-model for a fair and just solution and thereby, constructing a normative framework to support the parallel UN peace process, the EP and the Council's declarations and actions (which aimed to put pressure on the nationalist leadership during the UN negotiations) depicted a different picture for the local leadership about the EU's objectives. The role of the Council has increased the importance of strategic bargains and emphasised the power of 'insiders' and the pro-Greek Cypriot inclination of the EU, in the view of the Turkish Cypriot leadership. The EP's strong emphasis on moral responsibility towards the RoC against an 'aggressor' state (Turkey, due to the presence of troops in Cyprus) and an illegitimate entity (North Cyprus) further clinched the widespread perception of threat stemming from the EU engagement on the side of the Turkish Cypriot leadership. In the view of the local political elites, the threat was against the state and their unchallenged power and monopoly inside North Cyprus. Until a leadership change in 2003, the EU framework was continuously discredited by the local leadership and the Union failed to convince the North Cyprus leadership to cooperate and alter their perception of zero-sum nature of EU membership.

This insight from the analysis of EU legitimization through norms and principles reveals that local leadership play an important role, since it is the primary local actor that the EU should convince about the consistency, ergo credibility of the EU framework of norms and principles. This finding is consistent with Noutcheva's findings in terms of the centrality of the local leadership in determining the credibility of the EU framework at the domestic level. Noutcheva (2006: 8) notes that

When the EU demands are perceived as universally applicable rules and principles which it firmly stands behind in its external relations in general, then the EU institutional machinery will have less difficulty socializing the political class of target countries. The more the EU conditions [and norms] are seen as an expression of the EU's self-interest, the easier it will be to make a legitimate case against compliance with them in the domestic political context of a would-be member and the harder it will be to convince the political elites in the virtue of EU-compliant domestic changes.

The findings of the thesis have highlighted that especially in the contested statehood settings where sovereignty and security are prioritised, the inconsistencies in the EU framework are emphasised by the local politicians as a sign of EU's self-interest orientation, cynicism and impartiality. If the EU framework is seen intrusive or challenging against the authority of the established political elite, the inconsistencies of the EU's normative objectives are used to discredit the EU in the eye of the wider public, to oppress and isolate the domestic opponents and to further empower or maintain their power, as the North Cyprus case has demonstrated. The TRNC's nationalist government strengthened its power further during the 1990s by claiming that the EU bypassed the Turkish Cypriot community as a naturally pro-Greek/Greek Cypriot actor. Contrary to North Cyprus, in Kosovo, the local leadership welcomed the EU's norms and principles (at least at the discursive level) since the EU norms and principles are seen compatible with the local priorities. As a result, the EU was able to rely on a widespread high profile and credibility (as a desirable and ideal actor to replace UNMIK, at first instance) at the beginning of its extending involvement in the conflict resolution process since the Vienna negotiations.

The first pathway of legitimization of the analytical framework, *legitimation through norms and principles*, has evaluated the consistency of the EU framework as presented to the local audience. Overall, the role of the local political elite and their perception of the consistency of EU norms and principles are decisive in evaluating the credibility of the EU framework. Yet, local political elites alone are not sufficient to explain how and under what conditions legitimization process impact EU conflict resolution. Usually, the political elites' strategic support or challenge for the EU framework of norms and principles is subject to alteration once the EU framework unfolds on the ground through various policies. Moreover, the political elites in conflict cases are not uncontested local actors.

The ideological and/or strategic drives of the local incumbents are not the only drives for local support or challenge. The multiplicity of ‘the local’ and alternative local ideas and norms are prominent factors shaping the EU legitimization. Non-governmental local groups can actively interpret, adapt and localise the EU framework to generate a more genuine and widespread local support for EU norms and principles. Therefore, it is also important to look at how alternative local ideas and attitudes interact with each other and with the EU norms and principles.

8.2.2 Legitimation through Local Ideas/Ideologies

When constructing its justifications on norms and principles, the EU relies on so-called ‘moral proselytism’ (Acharya 2004). In other words, the EU’s liberal understanding of conflict resolution assumes that diffusion or dissemination of Western and liberal-democratic principles would naturally occur as a result of their “self-evident virtuosity and truth of the liberal peace project” (Taylor 2010: 157). The universality of such principles is considered sufficient for local groups to develop a natural praxis to subscribe to these overarching norms. Hence, we can claim that the EU assigns the universal or European prescriptions a “casual primacy” that would ensure replacement of local norms (Acharya 2004).

The thesis has argued that in this approach “the importance of the adopter populations’ own characteristics ... [have] been slighted, ... largely ignored or assumed away with simplifying assumptions” (Checkel 1999: 86). The analytical perspective of legitimization has sought to reveal the local’s contextual re-interpretation of these normative basics of EU framework in accordance with their “needs, aspirations and actual lives” (Bleiker 2011: 293) (also, Bjorkdahl, Richmond et al. 2009). The empirical findings of the legitimization through local ideas have showed that local ideas and norms can open up possibilities for controversies and intense debates at the local level and might be used to empower or challenge the EU’s authority in a conflict resolution process. The analysis has also revealed that the way in which local and EU ideas, principles and norms interact has significant behavioural implications on local stakeholders’ actions vis-à-vis the EU.

First, the interaction between local ideas and ideologies and EU norms and principles in Kosovo and North Cyprus has demonstrated that local actors have other options than “wholesale acceptance or rejection” of the EU’s ideational framework (Acharya 2004: 239). Contrary to the common assumption of the socialisation-

conditionality approach, the overarching principles that the EU promotes do not automatically lead to diffuse support for the EU's normative framework even when they are linked to an enlargement prospect. Different local-contextual factors generate various interpretations of the normative principle-based framework of the EU. The empirical findings have demonstrated that the ideas that the EU draws upon to construct its normative framework need to resonate widely at the local level in order to be accepted. There is not a guaranteed linear adoption of overarching universal or EU norms by local actors as assumed by the supporters of the socialisation theory (e.g. Risse, Ropp et al. 1999).

No matter how consistent and steadfast the EU is in promoting norms to enhance reconciliation, democratisation and development, local actors (especially non-governmental groups and the public) would reinterpret the EU framework in light of local extant ideas and ideologies. According to Acharya, this reinterpretation is called *constitutive localisation* which refers to “a dynamic process of matchmaking” (2004: 239) and pertains to a “reconstitution [of] an outside norm congruent with [a] pre-existing local normative order” (2004: 243-4). Constitutive localisation ‘accounts for a range of responses to new norms that fall in between outright compliance and total rejection’ (Acharya 2011: loc. 148). The case analyses have showed that constitutive localisation is at work in Kosovo and North Cyprus. Local civil society organisations, political parties, intellectuals and broader public can utilise EU resources, tools and normative discourse in order to promote their own conflict resolution vision.

For instance, in Kosovo, local groups (including the political leadership) grafted and pruned the ideas and norms in light of the dominant local ideology, i.e. deserved independence and the preservation of Albanian identity, without rejecting the EU framework outright. Acharya notes that grafting and pruning occur when “local actors ... redefine the external norm, linking it with specific extant local norms and practices and selecting those elements which fit the pre-existing normative structure and rejecting those that do not” (2004: 251). The promotion of Kosovar identity for a supra-ethnic new Kosovo is redefined through a majoritarian understanding which promotes the local idea that Kosovo has dominantly Albanian nature. In other words, the majority has recognised and supported a Europeanised identity through giving it a ‘Kosovo Albanian’ meaning. Although ethnic references and symbols are formally expelled from the Kosovo Constitution, public life and the local political discourse is full of references to the

dominant Albanian nature of the 'Kosovar', while Kosovo Serbs strictly reject to internalise the 'Kosovar' identity, as a reaction.

Similarly, in relation to the decentralisation policy, Kosovo Serbs has made the process fit in their daily needs and expectations by grafting and pruning what is offered through decentralisation (extensive rights, autonomy and self-rule for minorities). As demonstrated in Chapter Five, Kosovo Serbs have created informal links and hybrid governance structures by combining the competences and capabilities of the parallel (supported by Belgrade) municipalities and the decentralised municipalities. Despite the fact that the EU and Kosovo authorities strictly disapprove the parallel authorities and put pressure on Serbia to stop funding them, the local Serb community perceives the continuity of the unique cooperation between Pristina- and Belgrade-supported municipalities crucial for their everyday needs and survival.

In North Cyprus, another form of localisation occurred. While the local leadership resisted and contested the EU norms as a both ideological and tactical act, the non-governmental local groups borrowed and framed "external norms in ways that establishe[d] their value to the local audience" (Acharya 2004: 215). According to Klandermans (1997), framing occurs when local actors including the media and the public jointly define and reinterpret the state of affairs. The framing of EU ideas by local groups in North Cyprus suggest that localisation might engender widespread discussion on conflict, identity and conflict resolution, enhance the local will for a decisive resolution of the conflict and prepare ground for further cooperation between the EU and the local actors. The North Cyprus case has also showed that localisation can also increase the appeal and credibility of local actors and ideologies. The previously marginal or unpopular ideas of the civil society and the political opposition have been redefined in light of EU framework. In this sense, localisation through framing EU norms and principles highlights the role of the 'insider proponents'. When 'the linkages between existing and emergent norms are not often obvious and must be actively constructed proponents of new norms'(Finnemore and Sikkink 1998: 908), insider proponents can 'highlight and create issues' and a public space for deliberation on the EU framework and re-construct external norms. The EU framework has provided these agents with new understandings, interests and strategies.

Constitutive localisation is different from the constructivist and cosmopolitan approaches which explain local support through long-term norm-diffusion/socialisation and as an outcome of external actors' initiative (Checkel 1999). In constitutive

localisation, local initiative is central in building congruence between the EU and local stakeholders. In order to gain widespread public support, “there must be willing and credible local actors... These actors should not be seen as ‘stooges’ of outside forces” (Acharya 2004: 251). Without the local initiative inscribing a ‘local input’ onto the EU norms/ideas, the EU framework cannot generate the necessary conditions for a sustainable change in the local ideas and ideologies in favour of conflict resolution. To take an example from the findings, in North Cyprus, the EU’s normative framework is given diffuse support through matchmaking between the external norms and historically/contextually developed pro-solution vision of the civil society and the opposition (Checkel 1999; Acharya 2004). Although the unprecedented pro-EU/pro-reunification movement in North Cyprus was stimulated by the EU membership prospect and completely transformed the domestic political scene in North Cyprus in favour of the pro-solution groups, it was not the EU itself actively engendered a wide scale public movement. Chapter Seven has showed that the alliance between the local civil society groups and political opposition adopted the EU framework as a window of opportunity to gain public support for their long-lasting vision of conflict resolution (i.e. facilitating a common Cypriotness and curbing Turkey’s role in North Cyprus). The local context and initiative, i.e. the economic crisis, helped the bottom-up peace entrepreneurs to consolidate their agenda by making use of the EU framework as an alternative to the failed independence project of the nationalist elite. Therefore, we can claim that the unprecedented bottom-up mobilisation was due to the EU factor, but mostly as a result of the already-existing pro-peace movement’s skilful utilisation and internalisation of the EU framework to counter the dominant local ideology in North Cyprus. In North Cyprus, we see an active local agency rather than an evident engagement of the EU to empower local civil society before the referendum. In this vein, the influence of local agency mainly resulted from the local non-governmental groups’ abilities to frame the EU framework to initiate a domestic sphere of deliberation about the conflict, conflict resolution, the role of Turkey and the Turkish Cypriot identity. This active local agency’s framing of EU norms and principles cannot be explained only through instrumental adaptation, dialogue and persuasion, and process of institutionalisation, as suggested by the socialization approach (e.g. Risse, Ropp et al. 1999). On the contrary, localisation in North Cyprus did not ‘extinguish the cognitive prior of the norm-takers but [led] to its mutual inflection with external norms’ (Acharya 2004: 251).

Localisation also reveals that there is usually an evident competition between the norms promoted by the EU as a part of its conflict resolution agenda and the overarching norm or ideology of local groups. But instead of a total rejection of EU norms or long term wholesale socialisation of the local actors within the EU principles, local actors redefine the EU norms. For instance, in Kosovo, the local authorities, public and civil society groups injected European or supra-ethnic references in the Kosovar identity. But, in practice, Albanians attributed a majoritarian understanding to the 'Europeanised' identity of the new state. During this process, the locals make EU norms congruent with the dominant local ideology, attitudes and beliefs (i.e. the primacy of independence and dominance of Albanians in Kosovo).

In short, the relationship between dominant local and EU ideas, norms and priorities affect the local adoption of the EU's ideational framework. The EU's normative objectives are not either accepted unconditionally or dismissed outright, but reassessed from the local agents' point of view. Without knowing the content and implications of this reassessment or in Acharya's terms 'localisation' process, the EU conflict resolution risks being remote and irrelevant to the local needs and demands.

Second, the analysis of legitimation through local ideas and extant norms does not only explicate "how norms are diffused, but also why some norms that are accepted in one place are rejected in another (Wang 2012: 6). In this sense, the findings of the thesis have helped us unpack the black box of long-term socialisation and internalisation by local groups. The analysis has showed that local agents actively select norms to reinterpret and to make them congruent with the local dominant norms (Wang 2012). The reason of different interpretations or selection -rather than wholesale acceptance or rejection- is that the EU framework unfolds in a local context which is divided along ethnic, ideological and political lines with limited agreement on the reasons and the persistence of the conflict. Subjective reinterpretations of the EU framework take place in accordance with local group priorities, attitudes and perceptions. Based on the extant norms and ideas, various local groups 'work on' the EU's normative/ideational framework. Therefore, many factors affect this reinterpretation such as the dominant perceptions of conflict and the sense of victimisation, the presence of pro-peace actors and hardliners, the ideological and strategic disagreements between local groups and the common perceptions of the third party involvement.

The analysis of the legitimation process through local ideas unearth these subjective 'selection' process, i.e. the way in which local groups select some EU norms

and ideas by either upgrading them to enhance EU engagement in conflict resolution or by countering and disqualifying the EU's normative stance with an alternative normative argument to enforce their own vision of conflict resolution on the ground. For instance, in Kosovo, international support for independence and the preservation of dominantly Albanian nature of the new state constitute a common denominator of all groups (politicians of different ideological affiliations, non-state groups and the public). Therefore, local groups are keen to select and adapt the norms and principles that would promote Kosovo's sovereignty, international reputation and independence and its dominant ethnic identity. Likewise, local groups would challenge norms and policies that would threaten these common principles. In this sense, we can speculate that the majority's support for the EU framework can be easily withdrawn, if the EU evidently opposes the Albanian dominance and monopolisation of Kosovo institutions.

The North Cyprus case has also exemplified selective rationalisation and normativisation of the EU framework in light of the local attitudes and priorities. In North Cyprus, self-determination claims never gained support from the international community through the long course of the division on the island. The international isolation resulting from the lack of recognition has been a major hindrance on the political and socio-economic conditions of Turkish Cypriots. Civil society groups, opposition parties, and other non-governmental organisations have long been convinced that self-determination claims were never going to be accepted internationally and protracted division would only escalate the effects of the economic and political isolation, and dependency on Turkey. In other words, international non-recognition has allowed alternative political opinions within the Turkish Cypriot community to oppose the dominant state ideology and define themselves as pro-peace actors. As a result, in North Cyprus, non-state groups and the public have utilised the EU membership prospect as a potential remedy for the lack of political status, international recognition, economic development and democratic rule. The EU framework has allowed the local peace entrepreneurs to question the feasibility and desirability of state ideology constructed on independence claims and close relations with Turkey. The public chose to support the previously-isolated groups' argument because the EU could be an opportunity to overcome the dilemma of living under Turkey's domination versus being a minority in a Greek Cypriot state. On the other hand, political equality and bi-communal and bi-zonal characteristics of a future common state are uniformly accepted ideas among the local groups and different political ideologies. The EU freedoms as

promoted by the RoC as a European solution are not echoed even among the pro-solution actors.

In short, when conferring support for the EU or by compelling the EU to alter its normative agenda according to local dominant norms and priorities, local groups continuously refer to the common denominators or the extant local ideas and priorities. In this sense, the selection of some EU norms for adaptation should not be seen as mere tactical or ideological position; but as a reflection of deep-rooted local convictions about the conflict and the desired solution.

Third, the findings have showed that paying greater attention to the “adopter’s experience, norms, values and intentions” (Checkel 1999: 86) is crucial also to understand the limits of the EU’s normative and allegedly universal norms as the ultimate guideline for resolving conflicts. By modifying the EU norms to fit in local value patterns or by re-framing them to utilise for their own purposes, local actors can alter the meaning of EU norms. As a result, the normative set of arguments does not often resound on the local scene exactly in the same way that the EU intends. As the analysis of Kosovo and North Cyprus has revealed, the reinterpretation and reconstitution of EU norms in light of local norms and ideas, and the selective adoption of EU norms usually drift the conflict resolution process away from what the EU initially designed. The reason is that there is always a ‘cognitive prior’, i.e. ‘an existing set of ideas, belief systems, and norms, which determine and condition an individual or social group’s receptivity to new norms’ (Acharya 2011: loc. 430). Framing, grafting and pruning of the EU’s ideas point out that conflict resolution does not remain within the normative framework at least in the way that the EU conceives it. Therefore, localisation refers to a dynamic and continuous process which is subject shifting conflict resolution conditions (Acharya 2011).

Last, the reinterpretation of the EU’s normative approach by different local groups has strengthened and highlighted the existing divisions among the local groups in Kosovo and North Cyprus, albeit along different lines. The Kosovo case has showed that Albanians and Serbs interpret the EU’s broad normative agenda for Kosovo conflict resolution in diametrically opposed ways. In this sense, the EU framework as a constellation of ideas and role model has proved to be far from offering a reconciliatory framework to the main ethnic communities on the ground. The local ‘reinterpretation’ of the EU framework has even worked against the EU’s vision of reconciliation between different ethnic groups. The analysis in Chapter Five has showed that the strict rejection of the EU framework by

Kosovo Serbs is much defined by how Europeanised identity is utilised and monopolised by the Kosovo Albanian majority.

In North Cyprus, the reinterpretation of the normative framework has also emphasised a traditional division within the society along the ideological and political camps. The hardliners in North Cyprus discredited and denormalised the EU norms and role model due to strategic and ideological scepticism. The EU was accused of hypocrisy and challenged on legal and moral grounds. The hardliners in North Cyprus justified their rejection to flexibly engage in the UN negotiations and seeking political and economic integration with Turkey through blaming the EU's inconsistent approach. On the other hand, the pro-EU groups sought to change the domestic discourse and open up an indigenous space for questioning the state ideology. In short, in North Cyprus and Kosovo, the constitutive localisation process has entrenched the existing local ethnic and political divisions among the local groups. In North Cyprus, this was conducive for facilitating a settlement by enriching political debates about conflict resolution. However, in Kosovo, localisation contributed to ethnic division and created a zero-sum understanding allowing the groups to justify their own norms and actions and call the opponent norms and actions into question (Cortell and Davis 1996).

Overall, the local has a “differentiated ability to reconstruct [EU] norms to ensure better fit with prior local norms” (Acharya 2004: 239). Local actors, rather than being passive beneficiaries, “resist, ignore, subvert or adapt” the EU agenda (Mac Ginty 2010: 402). Even further, they are able to present counter-normative arguments and alternative forms of conflict settlement and reconciliation. Ideas and attitudes are actively utilised when defining perceptions and priorities of local stakeholders on the ground. These priorities and perceptions then define salient political issues and policy choices of local groups to put pressure on the EU to change its policies or to ‘push’ the EU to take more concrete action.

To sum up, legitimisation of the EU as a framework and policy actor cannot be understood outside the context of the ideas and priorities of the local groups in question. The analysis of legitimisation through local ideas has found that localisation is more suitable to explain the complex relationship between local ideas and priorities and EU norms and principles compared to the top-down socialisation approach. Localisation rejects the one-way approach towards norm diffusion either as an outcome of long-term socialisation (Finnemore and Sikkink 1998; Risse, Ropp et al. 1999) or as merely a result of rational utilitarian calculations of the political leaders. It explains the role of ideas and “the agency

role of norm-takers” by looking at the “matchmaking” between the EU and local ideas through grafting, pruning and framing (Acharya 2004).

8.2.3 Legitimation through Participatory and Procedural Qualities

The analytical framework as presented in Chapter Three has discussed that legitimation through participatory and procedural qualities is conditioned by normative principles of accountability, transparency and local participation. If the local groups are involved in decision making and implementing, a conflict resolution process is likely to be empowered by a sense of co-ownership and responsibility and the overall satisfaction with outcomes are expected to increase. The analysis has showed that in principle, the EU promotes formal and informal mechanisms to exchange opinion with local authorities, dialogue with local civil society, transparency and information-sharing with the public as an integral part of the EU policies and actors on the ground.

The findings from Kosovo and North Cyprus have demonstrated that different mechanisms are institutionalised with an aim to allow the participation of local authorities into the EULEX and the FAR decision-making. For instance, as far as Kosovo is concerned, the EU has introduced the local ownership paradigm. Being aware of UNMIK’s decreased popularity due to its extensive monopoly in decision-making, EULEX has been cautious in evidently using its executive powers and introduced consultation and burden-sharing mechanisms with the government. A high level hybrid committee between the EU and Kosovo institutions was set up with an aim to provide the Kosovo government with direct access into the EULEX decision-making. Through other institutionalised relations such as the co-location principle for formal and informal liaison between the EULEX staff and local authorities EULEX aims to ensure co-ownership of policy-making. Moreover, the participation of the government authorities in the EU’s policy-making and implementation constitutes a crucial part of the EU’s claim to procedural rightness.

In North Cyprus, direct relations with governmental authorities are considerably constrained. Compared to Kosovo, the TRNC authorities have not been granted direct access to formal channels of consultation and deliberation. Only the Commission Task Force for Turkish Cypriots and its ground office (EUPSO) actively liaise with the TRNC EU Coordination Centre (EUCC) and the KTTO. Besides technical harmonisation

procedure, there are no formal mechanisms of joint decision making due to the non-recognition policy of the EU in North Cyprus.

The findings have demonstrated that, in both cases, the EU has achieved to incorporate the local non-governmental actors into the consultation process. However, EU's engagement with non-governmental groups during policy-setting and implementation stages has remained below the expectations of the local civil society in Kosovo and local business groups and other civil associations in North Cyprus. In Kosovo, local civil society, despite the EU's contrary commitment, does not possess "a high degree of agency in terms of initiating, directing or determining the nature of the changes" (Mitchell 2010: 660). Moreover, the public, especially the disadvantaged groups like Kosovo Serbs, have limited access to information about the scope of actions, decision-making powers and outcomes of implementation. Similarly, the Turkish Cypriot community has been deprived of representation at the EU level which has considerably limited their ability to access the EU institutions as citizens of the Union. Moreover, the EU Task Force works in total unanimity and secrecy due to the unrecognised status of North Cyprus.

These findings suggest that Kosovo and North Cyprus cases offer an interesting comparison between the two different EU practice of engaging with local actors in the decision-making and implementation phase and generating local support through participatory and procedural qualities. First, in Kosovo, the EU has developed a more direct control over local institutions, decision-making and implementation, despite its commitment to local ownership principle and the presence of institutionalised mechanisms of consultation and burden-sharing between the local authorities and EULEX. In Kosovo, the local ownership principle co-exists with the extensive EULEX decision-making and execution powers. In other words, despite continuous emphasis on local ownership as a procedural quality and as an outcome, EULEX has direct and indefinite involvement in Kosovo through supervisory powers over the Kosovo's elected government. As Chapter Five discussed, the limited accountability of EULEX components, especially the judiciary, has created a criticism of the EU as an intrusive foreign presence. Due to this perception of unaccountability and the lack of EULEX transparency, the mission has been mostly discredited by the governmental groups. Moreover, EULEX was deployed under contentious legal conditions against the will of the majority of Kosovars. The change in the scope of the mandate of EULEX without consultations with the Kosovo government has clinched a general perception that Kosovo government is not seen as an equal partner by

EULEX, in spite of the common declarations of partnership and collaboration between the two.

By contrast, in North Cyprus, the restricted scope of semi-formalised relations and the EU's limited power over decision-making has dismissed such criticisms from the beginning. Due to the lack of political recognition, the EU could not introduce extensive corrective responsibilities on the ground. Instead, the unrecognised status of North Cyprus has obliged a more flexible and at distance engagement by the EU in North Cyprus. In other words, the EU had to assert itself 'as a facilitator' rather than 'an engineer' on the ground (Donais 2009). Since the EU does not have direct or shared decision-making power in North Cyprus, the EU relies on the will of the TRNC authorities to carry out the harmonisation process and the FAR implementation. Since there is less direct control over local politics, the involvement of the Commission in technical harmonisation process in collaboration with local authorities has encouraged local cooperation and compliance, despite the fact that the EU requires a total transformation of the local legal structure. The limited relations, albeit lacking public transparency, have been built upon a current mutual agreement and pragmatism. The situation has created a cooperation between the EU and locals free from criticism against the EU's authority as interventionist. Findings from the North Cyprus case illustrates that the absence of genuine and direct channels for cooperation and participation might not always become a pressing concern on the ground, especially if the local authorities are currently satisfied with the EU's policies (implementation the FAR and harmonisation of the TRNC laws).

Second, the thesis has showed that ensuring local participation and accountability/transparency for EU representations and policies are not easily achievable objectives for the EU. The EU has opened up new opportunities mainly for local government's participation; but the participation mechanisms do not necessarily lead to strengthening genuine local ownership and burden-sharing with local stakeholders. The local audience is not uniform or composed only of the incumbent government. Given the civil society and other non-governmental actors' demand to be an integral part of the policy-setting and implementation process, it is important for the EU to contemplate on 'participation of which groups' and 'accountability to whom'.

In Kosovo, the EU has assumed direct responsibilities of designing and implementing specific policies on the ground which has imposed the agenda from the top without leaving much discretion for the non-governmental actors to generate their own alternatives. The studies on the role of the civil society in conflict resolution usually assert

that through support for civil society, third parties could gain support from broader audience for their policies (Marchetti 2011). However, contrary to what the existing studies tend to assume, the Kosovo case illustrates that local civil society might be continuously included in the process of consultations and might even possess an autonomous space to utter criticisms against the EU institutions on the ground, yet they might still be disempowered to have an impact on the EU policies. The EU has approached the fledgling local civil society through ‘pedagogical exercises’ (Jabri 2010: 41-2) about human rights, rule of law, democratisation and civic culture. Local civil society in Kosovo is well-aware of the EU institutions automated tendency to ask for consultations but stick to their own agenda, as discussed in Chapter Five. The civil society organisations complain about bureaucratisation of aid, too many technical criteria and deadlines. Dialogue with the civil society organisations was introduced to enhance the EU’s relations with local stakeholders beyond the government. However, the pedagogical and bureaucratised EU approach has bolstered another form of top-down control. The lack of genuine participation mechanisms for non-governmental bodies has led to “a sense of powerlessness and loss of agency” for Kosovar civil society (Mitchell 2010: 658). Hence, for the majority of non-state groups, the EU engages with the civil society through technical meetings, symbolic consultations to tick the boxes of accountability and transparency rather than establishing genuine deliberation with all local actors which would allow various groups to express disagreements.

The EU’s relations with non-governmental actors in North Cyprus have also remained limited and unexploited. There is no direct access of Turkish Cypriot community to the EU institutions. Moreover, the semi-formal settings for deliberation and indirect participation for non-governmental groups (such as the High Level Contact Group and the observer groups from the CTP in the Parliament) have not met the local expectations and lately become inert. Chapter Seven has argued one cannot ignore that non-governmental groups (including the pro-EU circles) are largely disappointed with the lack of representation of Turkish Cypriots in Brussels and the failure of the alternative mechanisms of opinion-sharing and deliberation which deprive Turkish Cypriot civil society and other non-governmental bodies of participation.

Third, the findings of the analysis of legitimisation through participatory and procedural qualities suggest that the EU should rather be alert against what Cooke and Kothari (2001) call the ‘tyranny of participation’ as the Kosovo case has demonstrated. After five years of independence (and more than ten years since the first local elections

were held), the elected representatives of Kosovo are considered to serve merely as “a mediating link” between their electorates and the unaccountable EULEX by the non-governmental local groups (Chandler 2007: 606). The local authorities are obliged participate in the EU’s ‘technocratic and over-simplistic solutions’, since these are the only mechanisms that would engage them into the process of decision-making (Mac Ginty 2008: 142). The improved local participation into the EULEX decision-making which is limited to the Kosovo government exemplifies what Chandler calls ‘inversion of sovereign state’ that “hollow[s] out of the opportunities for domestic debate and engagement” outside the government and forces the local political elites’ to be responsible and answerable to the EU representatives rather than to their own citizens (Pugh 2007; Chandler 2010b: 79-80).

Moreover, the Kosovo government also finds this cooperation useful. The government is aware that those who conform with the EU are likely to maintain the EU support and “attain more power, legitimacy, and even domination than those who do not” at the local level (Mitchell 2010: 660). The findings from Kosovo point out that the local government can easily manipulate these privileged relations with the EU in order to preserve its power and eliminate rivals by exploiting these consultations as showcase items of Kosovo’s progress in EU relations.

However, non-governmental groups and the opposition interpret EULEX’s implementation of local ownership as removal of political agency from them through an opaque cooperation between the government and EULEX bypassing the Assembly and non-governmental stakeholders. As discussed in Chapter Five, the local non-governmental bodies express their concern with the closed relationship between the government and EULEX which is even beyond the Assembly’s scrutiny. For non-governmental groups, participation and consultations should lead to co-ownership and burden-sharing. However, the EU’s technocratic approach, such as co-location and ambiguous borders of EULEX’s influence on the legislative and executive, exemplifies that the EU preserves control on decision-making and share power with the elected local politicians only when it sees suitable. In this sense, it has become difficult to overcome the local perception of top-down and unaccountable features of EULEX, despite the presence of formal bodies of consultation, co-ownership and shared governance with the local authorities.

Hence, when initiating participatory mechanisms for local authorities, choosing local partners can become a challenge for the EU. Support for the most visible local actor (the government) can generate more foundational challenges from local civil society,

minority groups and the opposition towards the EU, if it is perceived as indirectly protecting and contributing the consolidation of the criminal and corrupt political elites.

Contrarily, the North Cyprus case has illustrated the significance of non-formal deliberation as a form of establishing more general support from local groups. Instead of a forced cooperation between political authorities and the EU which lacks public transparency, in North Cyprus, dialogue of the EU in the post-referendum phase with the local civil society and other non-governmental groups and the pragmatic engagement between the Commission Task Force and the TRNC EU Coordination Centre has achieved to gain local support. The North Cyprus case has showed that non-state groups can become more satisfied with the open dialogue and willing to capitalise on the EU support according to their own agenda and local appeal rather than being subject to pedagogical civil society development exercises of the EU. They can act as a channel for communicating “grassroots political claims” to the EU (Marchetti 2011).

Overall, the findings have illustrated that local authorship and participation cannot be generated through a rush for share of competences with the local government. If local ownership is perceived as a way to defer responsibility and comply with some technical benchmarks generated in Brussels for performance appraisal of the ground missions, the EU continues to face the challenge to generate a truly deliberative public space. The Kosovo case has demonstrated that when the EU is perceived to possess interventionist decision-making powers, non-governmental groups aspires to be informed about the burden-sharing between the government and the EU actor on the ground. Legitimation through procedural and participatory qualities does not imply a simple transfer or sharing of EU powers with the most visible and likely actor on the ground; but balanced and widespread participatory mechanisms encouraging the input of governmental and non-governmental, powerful and disadvantaged political groups at the same time.

On the other hand, if the local groups are included in the process of standard-setting and implementation to certain extent and if they do not perceive the EU’s current level of engagement intrusive, despite the low levels of formal consultation and cooperation, local governments might feel more empowered and engage with the EU decision-making. As the North Cyprus case shows, under these circumstances, non-governmental groups might even push the EU for a more active engagement with local demands through informal and alternative participatory institutions.

8.2.4 Legitimation through Performance

The final pathway of the analytical framework in this thesis, *legitimation through performance*, assessed the effective provision of outcomes by the EU institutions and actors on the ground in accordance with the expectations and needs of the local stakeholders in Kosovo and North Cyprus. According to Pouligny, legitimation for third parties is built after their agenda unfolds on the ground. The locals judge third parties “on what they say they intend to do, on what they actually do, and how they behave and face up their responsibilities” (Pouligny 2006: 181). In this sense, the EU can generate or strengthen, as well as lose local support by virtue of the functions of the EU representatives or *ad hoc* institutions acting on the ground.

The case studies found that the EU’s performance on effective and timely delivery of policy outcomes usually remain below its commitments and local expectations. This is partially a result of structural deficiencies and contextual hurdles that are beyond the control of the specific EU actors on the ground. The presence of powerful third parties involved in the conflict, the international response to the secession and a continuous perception of threat about identity and ethnic-hostility by local groups are among these contextual factors. Such hurdles obstruct the efficient implementation of EU policies. Especially, de-securitisation of the local context depends on a complex set of factors outside the sole control of the EU.

For instance, in Kosovo, contextual factors such as close-knit social relations the widespread clientalism and deeply securitised ethnic identity have prevented the EU from engaging with fight against corruption, which is deeply immersed in political and economic system of Kosovo and to implement decentralisation projects efficiently. Similarly in North Cyprus, trade between the two sides on the island remains at a symbolic level, mostly because of the psychological factors, the politicisation and securitisation of the intra-island trade rather than the incapacity of the EU to put the GLR into effect. Also, the failure of lifting isolations and discriminations against Turkish Cypriots is mostly due to the Greek Cypriot attitude of blocking the unanimity at the Council, due to the distrust for the ‘intention of the other side’.

However, the empirical evidence has also argued that besides the contextual factors that prevents the EU from improving political and economic conditions on the ground, the EU’s technocratic approach to policy-implementation usually forestall the performance efficiency. As Olivier Roy (2004: 170) states conflict resolvers often think that they

address “not a real society but an abstract rational citizen who should be able to weight the advantages of democracy and free market and freely adopt such an effective model”. As a result, conflict resolvers tend to emphasise neutrality and an apolitical stance (Mac Ginty, Pogodda et al. 2012). This is also the basic premise of the EU’s technocratic approach in Kosovo and North Cyprus which aims at engaging with both conflicts in a depoliticised manner unwilling to involve in correcting social injustices, inter-ethnic imbalances and politicised recognition issues³⁷⁰.

To give a few examples from the findings, the EU prioritises incremental therapeutic steps over a clear end goal in both cases. For instance, when asked about Kosovo’s EU accession or the visa liberalisation process, the representatives of the Commission or EULEX claim that Kosovo has demonstrated considerable improvement since 2008 and the EU supports Kosovo’s future as a member state, but there is still a long process for Kosovo to fulfil Ahtisaari Plan’s implementation before taking further steps towards integration³⁷¹. Similarly, in North Cyprus, when asked about the approval of the DTR, the EU officials declare that the problem is between Turkey and the RoC regarding the Customs Union agreement and that the EU is fully supporting the UN efforts and committed to the process of technical harmonisation and financial aid to North Cyprus³⁷². Put differently, the EU sets objectives, but maintains incremental policies in order to ensure flexibility at the implementation stage.

There are two outcomes of the EU emphasis on apolitical/technocratic policy-implementation on the ground. First, due to the inability or reluctance of the incumbents, the EU actors on the ground usually find themselves addressing a public with high expectations. The cases of Kosovo and North Cyprus demonstrated that the role of the public is particularly important in legitimisation through performance since ordinary citizens “not having been informed about what a mission is supposed to do, naturally ‘judge by results’” (Pouliny 2006: 109). As Talentino states “[r]egardless of the peacebuilders’ promises, citizens will not support reform programs” unless they see a positive development in their daily conditions (Talentino 2007: 155).

³⁷⁰ For example, EULEX claims to work completely on a technocratic basis where best practices, factsheets, broad mission goals, and peace professionals are emphasised. While EULEX aims at generating ‘scientific criteria’ for rule of law in Kosovo, it puts forward its monitoring and advising functions in order to avoid the recognition issue. Likewise, in North Cyprus, the EU accentuates the centrality of the UNSC Resolution 541 and 550 which overruled the TRNC’s independence. The EU claims that the financial aid and direct trade proposals aim at facilitating economic development of the north as a technical matter.

³⁷¹ Author’s interview, the ECLO, Pristina, May 2011.

³⁷² Author’s interview, EU Task Force, February 2012.

It is worth noting that the EU's normative commitments and objectives also contribute to high public expectations. In both cases, the EU has emphasised its commitment to a decisive solution. At the beginning of its increasing engagement in Kosovo (especially during the final phases of the Vienna negotiations and in the immediate aftermath of the declaration of independence) and North Cyprus (especially after the positive vote in the 2004 referendum), the EU has committed itself to address the structural deficiencies, and thereby increased local expectations for tangible improvements. We can claim that the publics in Kosovo and North Cyprus have overall developed an ambivalent general demand from the EU "to keep its promises of 'better governance' and 'development'".

Moreover, the role of the local leadership in instigating these expectations is also worth highlighting. In both Kosovo and North Cyprus cases, the local leaderships "play not only on what they see as the 'preferences' of the mission as a whole, but also on those that they identify on an individual level among the people they deal with, complicating matters considerably" (Pouligny 2006: 182). For instance, in Kosovo, the incumbent elites utilise the membership prospect to maintain the domestic support for policies, especially regarding the rights and self-rule for minorities and the presence of internationals as well as to repel the public criticism for economic and political conditions. The membership prospect is also employed as a part of a civilisational narrative, as a way to secure Kosovo's future and independence and to protect security against a 'Serbian threat'. In short, the government has also forged the expectations of the Kosovar population from the EU. In North Cyprus, especially after the referendum, the new pro-EU government exploited the EU's commitment to lift isolations in order to discharge the societal pressure and disappointment of the public with the continuing status quo after the referendum. During the presidential election campaign in 2005, Talat utilised the EU's declaration to end isolations during the election campaign. The EU's 'normative turn' was presented to the public as an indirect recognition in-waiting that would connect North Cyprus straight away to the world.

In short, high local expectations have been generated by the EU's self-empowering commitments and forged by local politicians in both cases. In practice, the EU's emphasis on expertise and its apolitical attitude fall short of matching the needs and expectations of the publics. The Kosovo and North Cyprus cases have showed that populations which are supportive of active EU involvement usually expect quick and wide scale changes and push the EU to take visible action in accordance with their expectations and priorities. If

these expectations are left unfulfilled, inchoate commitments by the EU would lead to “broken promises” syndrome which ends up local disquiet and more foundational challenges in the long term (Talentino 2007).

Therefore, the analysis has also revealed that it is hardly possible for the EU to remain sterile from the highly securitised and politicised daily life in the conflict zones, if the EU aims at generating local support through visible improvements at the societal level. Especially when there is public discontent with the local authorities’ ability and willingness to meet public expectations, local groups turn to the EU to demand implementation of these crucial tasks. When local authorities fail to achieve these ‘tasks’ entrusted to them either due to the lack of institutional/material capabilities or embedded interests of the politicians in the status quo, non-governmental groups and especially the public expects the EU to correct local politicians’ mistakes and to shoulder a main role of generating political and economic progress.

In Kosovo, this situation can be closely observed where the local population first turns to the EU through EULEX to fix the failure of the Kosovo institutions such as applying a standard body of law to all citizens, ensuring integration of Serb regions into Kosovo, and providing internal and border security. To play with Pugh’s (2004) words, EULEX is seen as an indigenous tool of ‘riot control’ by the locals to bring quick fixes to deep local problems due to the inability or reluctance of the local government. Similarly, in North Cyprus, the Turkish Cypriot public and civil society turns to the EU for ending their isolations and economic problems, rather than seeing the problem as a consequence of the ongoing inter-ethnic mistrust, the stalled progress in the UN peace process and the RoC’s political strategy at the EU level. The thesis has demonstrated that as the delivery of promised outcomes is delayed and the EU places the burden on the delinquent, illegitimate or inept local authorities which fail to meet the EU criteria, the local public and the civil society, who have no direct access to the EU decision making, suspect that the EU prioritises its interests and its international image over its promises and commitments.

Second, if the ground missions or policy implementation remain below local expectations for a prolonged period, the EU’s overall credibility and authority in conflict resolution is negatively affected. The analyses of Kosovo and North Cyprus point out that persistent disappointment with the EU’s effective delivery of outcomes generate more substantial contestation of the EU’s authority in the long run. As Pouligny (2006: 181) notes, the contradictions and inconsistencies between decisions and actions “are often followed and analysed by the average citizen with attention and understanding”. For

instance, the lack of EULEX progress in fighting against corruption among the high-ranking state officials epitomises not only the EU's structural deficiencies in the view of local groups, but also its overall satisfaction with the short-term stability in Kosovo. As the EU does not engage with Kosovo's deep problems in order not to disturb the stability, the local criticism culminates into substantial challenges against the EU's prevailing normative objectives in Kosovo. In the same vein, the EU's failed commitment to lift isolations of North Cyprus due to the veto of the RoC in the Council and lack of representation of Turkish Cypriots in the EU have similarly generated a substantial criticism about EU reluctance to engage with its own commitments towards the Turkish Cypriot community. The existing discontent with the EU as a biased actor has so far created a steady scepticism and recalcitrance for EU's involvement in the peace process. Moreover, the inaction is attributed to some member states' desire to block Turkey's membership. This conviction has generated a deep public suspicion for the EU's tendency to link the demands of Turkish Cypriots into Turkey's membership process.

Therefore, there are always hard decisions to be made on the ground in order to fulfil the initial commitments. An apolitical approach on the ground does not secure support, and thereby, cooperation from the local public. The locals do not wish to see a neutral EU on the ground but a close 'ally' (Pouliny 2006: 184). Neutrality is usually interpreted as a lack of long-term vision or incompetence, and even worse, as a sign of reluctance to fulfil the initial commitments due to political concerns, especially by the non-governmental local groups and the wider public.

Overall, although legitimisation through performance has a strict subjective and functionalist logic, the findings from the Kosovo and North Cyprus cases suggest that there are deeper implications of a sustained performance failure in relation to the long-term diffuse support for the EU. The local public's appraisal of EU performance becomes a key determinant of the EU's authority and power in the conflict resolution process. As the thesis findings show, 'prolonged ineffectiveness' or the long-lasting failure to deliver expected outcomes or fulfil the initial commitments is likely to turn the local discontent into a more fundamental dissent with the conflict resolver's presence and the objectives on the ground (Coakley 2010:409).

8.3 The 'impact' of 'the local': understanding local challenge and resistance

After analysing various pathways of legitimation based on normative and empirical sources, the EU conflict resolution seems to be at stake in both cases due to weak local support. Surprisingly, the Kosovo and North Cyprus cases are *chasse gardée* of the EU where the Union has involved with the deepest commitment and efforts to address the structural causes of the two conflicts for a decisive settlement. This raises a crucial question: if the EU fails to rely on stable local support to maintain its power and authority in its two grand projects of conflict resolution, would it be ever possible to generate local support in other conflict resolution engagements? Answer to this question would also allow us to readdress the relevance and importance of the analytical perspective of legitimation in light of the empirical findings.

The discussion and findings in this thesis have demonstrated how relatively easy for the EU to affect the local discourses and even change the macro-level formal policies, but at the same time, how resistant the micro-level societal attitudes, values, ideas and ideologies, the memory of conflict and the lack of trust for third parties in conflict resolution. Findings from Kosovo and North Cyprus have suggested that dominant local ideas and priorities can be persistent over time. These persistent local ideas and priorities are difficult to replace and they would be in disagreement with the EU norms for a long time even in the presence of an enlargement prospect. There are certainly variations in the priorities and attitudes of local groups; but there are stable norms and priorities shared by all local groups in Kosovo (e.g. independence, unconstrained sovereignty) and North Cyprus (e.g. political equality with Greek Cypriots, lifting the isolations before reunification). If these local common denominators are perceived to be at stake due to the EU framework or a specific EU policy/actor, local resistance is unavoidable. Resistance approximates the conflict resolution process to local preferences and expectations, or otherwise, the EU loses appeal to local groups and struggles to maintain its decisive role in the conflict resolution process. How local resistance can be interpreted and used to improve EU engagements in long-term conflict resolution in light of these findings?

A key message of this thesis is that by assessing and understanding the process of legitimation through multiple local actors, we can identify the reasons and behavioural implications of local resistance which has emerged as an important component of local discourse and actions in both cases. Resistance from local groups is common and frequent

in third party conflict resolution engagements, since there are far less shared normative standards and goals between third party conflict resolvers and local actors compared to a government or regime and its citizens. As Bleiker (2011: 296) notes “wherever peacebuilding takes place, there is resistance to it”. Therefore, understanding and addressing the current problems of EU conflict resolution can only be possible by correctly evaluating the reasons, consequences and the persistence of local resistance.

According to the critical or post-liberal accounts of conflict resolution, a defining feature of a third-party conflict resolution engagement is the importance and desirability of local resistance. Resistance is unavoidable but, at the same time, desirable when conflict resolution agenda is determined by outsiders. In fact, resistance provides “extra-institutional scrutiny” and genuine “contestation that puts checks and balances on an existing system- something that is particularly crucial if the system ... is imported from outside” (Bleiker 2011: 304-5). Bleiker (2011: 296) emphasises the importance of the “ability to appreciate local resistance strategies not primarily as hostility, but as an essential element of shaping the hybrid nature of post-conflict reconstruction”. Resistance “revitalises the liberal social contract and gives the externally constructed states substance” and, at the same time, it “enables a more proactive encounter” between the liberal vision of conflict resolution and local alternatives “in which the hegemonic weight of the liberal peace is countermanded” (Richmond and Mitchell 2001: 26).

As a result of this encounter, a more hybrid form of conflict resolution process comes into existence. Hybrid conflict resolution comes out of the close relationship and mutual impact between international approaches to conflict resolution and local dynamics. It requires “mediation between the local and the international over peacebuilding praxis and social, political and economic practices that both deem plausible and acceptable, rather than a wholesale top-down imposition of an only a putatively universal liberal model” (Richmond 2010: 32). Therefore, as argued by Oliver Richmond, resistance offers the “main alternative avenue” for third party conflict resolvers through which they “could shape the emerging political environment ... [that] may also lead to emancipation” for local addressees (Richmond and Mitchell 2001: 25). Therefore, emancipation can spawn through local resistance.

This thesis demonstrates, through a close analysis of the intersubjective legitimisation process of the EU conflict resolution, that local resistance is related to generating and maintaining “societal sources of power and authority” for the EU and for the democratic, Europeanised institutions that the EU aims to promote for a decisive

conflict resolution (Brown, Boege et al. 2010). Legitimation as a conceptual and analytical tool opens up the conflict resolution process into cultural and customary practices of various local groups and gives us a chance to understand the reasons and consequences of resistance to externally-imposed agendas.

This thesis also reveals that there is not given recipe for achieving a hybrid emancipatory conflict resolution as advocated by the post-liberal critical approaches. Resistance occurs in implicit forms. As the analysis of four patterns of legitimation has illustrated, resistance “does not necessarily have to take place through the large-scale and public type of protest movements” but, it is usually diffused in everyday practice (Bleiker 2001: 299). Large-scale and riot type of resistance is not absent from the Kosovo and North Cyprus scenes; however, they occur less often. Implicit forms of resistance first causes “a default disassociation from emerging institutions rather than an active attempt to undermine them” (Talentino 2007: 157). At the same time, the findings show that local resistance is more often than the EU anticipates. As Bleiker (2011: 299) aptly states “critical agency can be local and hidden but still highly effective”.

Therefore, it is important to look for less directly expressed ways of local resistance. To give an example from Kosovo, despite the EU’s strong opposition to any plan to enforce Prishtinë/Priština’s control over Serb-dominated north of Kosovo, the government acted unilaterally in July 2011 to take control of the northern customs gates. This attempt was not only to establish Prishtinë/Priština’s control all over Kosovo and counter smuggling through the Serbian border. The government also aimed to express the discontent with EULEX’s inaction regarding the north’s integration into Kosovo and to demonstrate Kosovo government’s ability to take decisions without the approval of the EU. In North Cyprus, the resistance to the EU is expressed through increasing mainstream Euroscepticism and voting the pro-EU party out of office in favour of a hard core nationalist pro-independence party and a president in the latest elections.

Hence, in order to gain better understanding of the diverse and contextualised unfolding of local resistance on the ground, it is crucial to comprehend the processes of legitimation through studying the interactions and ‘the push and pull’ between local groups and the EU. As Donais (2009: 20) states “[u]nderstanding how legitimacy can be obtained, sustained, and squandered within particular post-conflict societies requires a serious effort to move beyond the contemporary rhetoric about winning hearts and minds”. In this sense, it is important for the EU to consider first, the message it sends to the local groups. What the EU intends to do, i.e. recognition or isolation or neutrality, financial aid, technical

engagement or an active role in the peace process. The unwanted consequences of the ‘excess’ commitment beyond what the EU actually intends to deliver would ignite expectations and mainstream disillusionment in the long-term. Also, the EU must consider how its policies affect the complex relationship between local groups. While it tries to empower certain groups (with normative intentions), the EU should also pay attention whether the ideological or ethnic fractions at the societal level become unbridgeable or whether the EU empowers a small clique, i.e. political elite and cause disillusionment from the majority of local groups. Finally, the EU should conceive the interaction between the local ideas and attitudes and EU norms and principles through a dynamic localisation perceptive, instead of looking at the relations solely through a top-down socialisation perspective. The extant norms that are embedded in the local group conceptions of conflict and conflict resolution are key impacting upon when, how and why the local groups adopt, resist or openly challenge the EU norms and principles. It is crucial to understand the processes ‘in which the external ideas are adapted to meet the local practices’ in order to broaden our understanding of EU conflict resolution.

Last, the thesis has highlighted that local groups are characterised by diversity and division in relation to perceptions of conflict, identity, conflict resolution and the EU. Political agency of local groups differs, and thereby, its impacts are multi-layered. A final point should be addressed at this stage. The analysis presented in this thesis provides a useful ground to reflect on ‘the local’. “[T]he dynamics of interactions [between the local and the EU] make every form of peace unique, dynamic, contextualised and contested” (Richmond and Mitchell 2001: 2). Therefore, it is important not to “idealise the local, which is often imbued with vested interests”, especially the governing elite in conflict regions (Bleiker 2011: 293). Yet, the approach of this thesis towards ‘the local’ suggest that rather than outright ‘pathologisation’ of the local and the pre-existing local structures as traumatised, corrupt, inefficient, outmoded, criminal, and thereby, conflict-enhancing (Hughes and Pupavac 2005), paying attention to various reasons for dissent would save the EU from making *a priori* judgements about the local needs and expectations and spare some effort on a constructive dialogic process and compromise in order to generate what is called hybrid conflict resolution. Since local responses are various, different strategies are required to deal with rejection, challenge, and manipulation from local groups, instead of applying an overall defensive rhetoric towards local groups which would be counter-productive in the long term.

Overall, this thesis has sought to develop a useful conceptual and analytical tool to understand and explain the sources, forms and conditions of local adoption, resistance, contestation, reinterpretation and challenge directed to the EU not only as an actor on the ground but also as a framework of ideas, norms and values. In doing so, it has aimed to enhance our understanding of EU conflict resolution and persistent problems that the EU faces in its engagements with local groups. This thesis contends that as much as the students of EU conflict resolution pay attention to various micro level local voices in conflict zones through an analysis of the legitimation processes, they would be able to make sense of the EU conflict resolution realistically, rather than based on the declared and desired identity and role of the EU.

Chapter Nine – Conclusion

Reflecting on the legitimization of conflict resolution, Tadjbakhsh argues that legitimacy of third parties in post-conflict human security promotion, restructuring and reconciliation stems from the participation of local opinions into decision-making, the public satisfaction with the delivered results, and the local perceptions of needs and expectations. In her words,

The legitimacy comes, therefore, not from the institutions of leadership, good governance, or social capital, but from *perceptions of justice, of the capacity and results of delivery of public goods, and of the space provided for diversity of opinions, and from the degree of the population's satisfaction of basic and strategic needs* ... Legitimacy, then, from emancipatory human security point of view, depends on the *consensus around the validity of the models and their content* used in peacebuilding by local populations, as well as how populations perceive the success of changes in improving people's everyday lives (2010: 127-8, italics added).

Such an approach is widely promoted in the peacebuilding/conflict resolution literature. By paying close attention to local group 'needs, aspirations and opportunities', recent conflict resolution studies (more specifically, the critical or post-liberal accounts) aims to address the legitimacy problem of external conflict resolution actors. When the 'home-grown' vision of [a] self-sustainable and just peace" is taken into consideration (Bjorkdahl, Richmond et al. 2009: 23), the actors of conflict resolution would be able to acknowledge their 'particular ideas, values, or models [that are] deemed universally applicable' cannot be simply imposed in reality (Tadjbakhsh 2010: 128).

The departure point for this thesis is the profound mismatch between the academic level discussions relating to EU conflict resolution and what actually is taking place in relation to conflict resolution practice. While the broader post-liberal peacebuilding/conflict resolution students call attention to 'the local; and the 'everyday' on the ground, the majority of the academic discussions in the EU literature focus on the Union's principled normative declarations and objectives, structural and material deficiencies to understand the problems and obstacles that the EU often faces during its various conflict resolution engagements. Many empirically rich accounts of EU conflict

resolution have demonstrated that the EU engages in installing democratic institutions, initiating market economies, devising civil society and rule of law development programmes with an aim to facilitate sustainable conflict resolution (Schneckener 2002; Carment and Schnabel 2003; Nodia 2004; Merlingen and Ostrauskaite 2006; Tocci 2007; Tocci and Mikheilidze 2010; Tocci 2011; Kacarska 2012; Whitman and Wolff 2012). These analyses often focus on the 'EU-side' and propose different reasons for persistent problems of the EU in dealing with ethno-political conflicts such as lack of resources, its institutional or structural deficiencies, often lamented incoherence among the member states or the gap between the rhetoric and practice.

However, there has been far less attention in the EU literature paid to the questions about local agency as a dynamic factor and the actual recipient of the Union's policies and normative objectives. The EU literature emphasises external governance and top-down, pedagogical practices in conflict resolution and does not consider the local agency as a capable actor to impact on the conflict resolution process that the EU intends to promote. Only a few studies within the EU literature have touched the local dynamics as intervening factors which often obstruct the EU's intended conflict resolution role to tackle with the conflict dynamics effectively (Coppieters, Emerson et al. 2004; Tocci 2005; Tocci 2007; Diez, Albert et al. 2008; Noutcheva 2009; Tocci 2010; Noutcheva 2012).

Whilst the focus in the recent conflict resolution studies has shifted beyond the self-evident value of liberal undertakings (such as democratisation, institution-building, facilitation of market economy through a neo-liberal agenda) towards a "critical and reflective position centred on social and public concerns" of the people in conflict zones (Richmond 2010: 2), the lack of attention to the actual recipients of conflict resolution in the EU literature raises the question why there is so little systemic research on the local agency and stakeholders' impact on the EU's conflict resolution role. This thesis argues that it is mostly due to the fact that the existing studies have not engaged in a systematic analysis of 'the local' with its normative-ideological dispositions, perceptions of conflict and conflict resolution of the EU. Only a limited number studies have so far considered the local agency as a factor impacting upon the EU's 'success' in resolving the conflicts. Nevertheless, in these studies, the local agency has been limited to interest-maximising political elite seeking economic or reputational gains from the EU and as nascent non-state local actors which are reliant on empowerment from the EU. As a result, local actors are considered to have two options: to accept or to reject the assumed normative identity of the EU. As a result, in short-term, the EU can generate support and cooperation through

incentives, and in long-term, local structures naturally adopt EU norms and support the EU agenda thanks to the socialisation dynamic.

Besides the existing research on EU conflict resolution, the policy level discussions have also been mostly dominated by the putative normative power which remains far from analysing the local agency and impact in terms of authorising the EU on the ground and altering the impact of the EU's conflict resolution efforts. Policy-makers in Brussels have so far failed to acknowledge that local stakeholders in conflict zones are the direct addressees of EU's normative justifications and the bearers of the outcomes of its policies.

In this sense, this thesis has particularly problematised this lack of attention paid to the constitutive power of local actors in EU conflict resolution literature. It has addressed this multi-dimensional relationship between local agency and the EU through a framework of legitimisation in order to understand the power of local ideas and the mutual relationship of the local and EU template (sets of ideas, norms and perceptions). The thesis has been driven by the question: *how and under what conditions does legitimisation by local groups in Kosovo and North Cyprus affect the EU conflict resolution?* In this sense, the thesis has adopted the concept of legitimisation as an analytical tool to set up a framework in order to analyse how EU ideas, norms, objectives and policies interact with local attitudes, perceptions, ideologies and extant norms, needs and expectations. In other words, the framework of legitimisation acknowledges the independent power of local agency and aims to understand the 'push and pull' effect of different local groups on the EU engagement in conflict resolution to explain when and how they grant support for the EU.

The four dimensional framework of legitimisation has offered a heuristic tool to gain insight into various aspects of the EU's authority in conflict zones as ascribed by local stakeholders. In line with the analytical framework, Parts II&III of the thesis have followed a structured and focused analysis strategy (George and Bennett 2005). The analysis of individual cases were based on two comparable sets of data extracted and generated from the fieldwork interviews with civil society representatives, politicians, peace activists and business groups, analysis of official documentation, reports, speeches and declarations of governmental and non-governmental groups, local newspaper archives, online blogs and secondary sources (the literature). The empirical parts of the thesis have assessed the legitimisation as a dependent process of the intersubjective relationship between the EU and local templates.

9.1 Summary and Main Contributions

In line with the objectives defined in the beginning, the thesis has analysed how local actors can impact EU conflict resolution through the analytical perspective of legitimation. Chapter Two assessed the origins and contemporary definitions and sources of the concepts of legitimacy and legitimation. In political theory, legitimacy is defined as “a shared expectation among actors of asymmetric power, such that the actions of those who rule are accepted voluntarily by those who are ruled because the latter are convinced that the actions of the former conform to pre-established norms. Put simply, legitimacy converts power into authority – *Macht* into *Herrschaft* – and, thereby, establishes simultaneously an obligation to obey and a right to rule” (Schmitter 2001: 2). Although legitimacy is traditionally applied to nation states that have well-defined differentiation-or asymmetry in Schmitter’s words- between rule-makers and rule-takers, legitimacy of less defined polities, non-state actors and public private decision-makers and conflict resolvers has become an essential component of governance beyond state as discussed in Chapter Two.

Chapter Two has also discussed that legitimacy, as a concept, refers to a static definitional term which does not reveal the characteristics of a decision- or rule-making actor or institution. Instead, the concept of legitimation enables an assessment of ‘an active, contested political process, rather than legitimacy as an abstract political source’ (Barker 2001: 28). Adopting an analytical perspective of legitimation would allow the researcher to engage in observable intersubjective activity of the rule-makers and rule-takers. However, Chapter Two has also argued that there is not an already-existing framework or a recipe to apply legitimation to the field of conflict resolution and the EU. Many students of global governance actually concur that understanding the legitimation process is essential for non-state actors of global/transnational governance, but it is contextual and should be defined according to the peculiarities of diverse rule-making bodies, affected groups or stakeholders and policy areas.

Given this lack of comprehensive framework of legitimation beyond state, this thesis has developed an analytical framework based on the existing literature and sources of legitimation for non-state actors of global governance in Chapter Three with and aim to apply it in a contextualised manner to the conflict resolution area. In this sense, Chapter Three can find a place within the newly-emerging theorisation of legitimation of non-state actors by bringing various structures and procedures of legitimation together within a

framework for analysis. EU conflict resolution is not an exhaustive example, a number of other contexts and empirical grounds can be identified within which (the problems) of EU legitimisation can be analysed. However, considering the Union's continuous support for holistic, multi-dimensional engagement with an aim to transform domestic political, economic and social structures in conflict zones, conflict resolution provides a fertile ground to assess the legitimisation of the EU as an actor of global governance.

The analytical framework has grounded the legitimisation of the EU on the support of the local actors in conflict zones and acknowledges the inter-subjectivity of the process of legitimisation in determining local actors' motivation for compliance and cooperation or resistance and challenge. The framework of analysis is based on two main dimensions (the sources and the objects) of legitimisation derived from the existing approaches in political theory and the global governance literature. In this sense, it reflects the surge of sociological and ideational approaches on the new theorisations of legitimisation beyond the state's domestic sphere. Chapter Three has defined four pathways of legitimisation as ideal categories.

The importance of this framework is its hybrid nature combining normative credentials and societal beliefs and local support for the EU as a framework of ideas and as a policy-making actor made up of different institutions with specific policies. While the existing approaches in the global governance literature tend to emphasise *either* normative *or* empirical sources and remain mostly devoid of empirical testing, the framework developed in this thesis has systematically incorporated *both* prescriptive and subjective aspects of legitimisation and highlighted their complementary nature. Moreover, the analytical framework differentiates between two levels of the objects of legitimisation: the EU as a framework based on normative objectives and the EU as a policy-making actor. Thus, it also highlights local actors' tendency to differentiate between the ideational framework and various representatives of the EU.

The thesis has also offered a novel agenda to look at EU conflict resolution. The local point of view is under-researched in the EU literature. In the EU literature, conflict resolution research is dominantly based on liberal and neo-liberal conceptualisations of order, stability and development in post-conflict societies. The existing studies on long-term conflict resolution through democratisation, rule of law, market economies, and all too often, close institutional relations and integration have been discussed solely from the EU perspective either through highlighting or questioning the ideational tenets of the EU or structural deficiencies and inefficiencies in implementing policies. Also, the

practitioners of this endeavour “take the legitimacy of themselves and their programs as self-evident without seriously considering the degree to which, for local actors, legitimacy must be rooted in their own history and political culture” (Donais 2009: 20).

In this sense, the thesis also contributes to the EU literature especially on external relations and conflict resolution by bringing a complementary account to the top-down approach of conditionality and Europeanisation. In their study of framing incentives and international conflict resolution efforts in Cyprus, Kovras and Loizides (2012) argue that “cognitive approaches supplement the study of incentives by focusing on discourses, frames or simplified mental representations of reality”. This thesis confirms the complementary value of cognitive approaches such as confrontational framing by different actors, perceptions and convictions in understanding the overall process of conflict resolution. Instead of assuming that the EU is legitimated *as a result of* its difference, i.e. ‘by virtue of being neither a mere international organisation nor a centralised sovereign state’ (Bickerton 2008: 10) and *through* a combination of normative disposition, policies and instruments, the thesis has highlighted the practice of legitimation is intersubjective and the EU should seek local societal support. The novelty of the analytical perspective of this thesis is its focus on the relationship between the local and the EU. Instead of analysing EU efforts of reconciliation, co-existence and Europeanisation as one-way pedagogical exercises, local agency –with its variety and divergences- is placed at the centre of legitimation *problematic* of the EU. In other words, legitimation is “‘inductively’ assessed ... through looking at local processes, and what people come to think is legitimate, rather than deductively from a normative regime” (Andersen 2012: 207). However, this is not to deny the role of ideas, and principles in the process of legitimation. Contrarily, such pre-existing ideologies and norms determine the way the EU justifies itself and its actions and determine different perceptions of local groups about the conflict, acceptable solution and the EU.

The empirical operationalisation of the concept of legitimation in relation to EU conflict resolution is another contribution of the thesis. The chapters on Kosovo and North Cyprus can also be read as an empirical contribution bringing local agency focus prevalent in post-liberal conflict resolution approach to the fore. Part II and III analyses three types of local actors, political elite, non-state groups (such as civil society, trade unions, business associations, youth groups, bi-communal contact groups etc.) and the public. The empirical analysis has demonstrated how the EU template, i.e. the normative framework, justifications and policies presented by the EU, interact with the local template, i.e. various

groups' perceptions of conflict, conflict resolution, the EU and (dis)satisfaction with the status quo. In this sense, the findings have showed that the normative framework of the EU is subject to close local scrutiny and acts of grafting, pruning and framing rather than total acceptance or rejection. By articulating how local ideologies and norms intervene in normative priorities of the EU, the thesis has demonstrated that there is more than top-down socialisation or strategic acceptance of the EU agenda of conflict resolution for local groups. While grafting and pruning are at work in Kosovo, framing of the EU's conflict resolution agenda has become the dominant 'localisation' mechanism in North Cyprus. Overall, localisation usually engenders resistance on the ground, empowers new social and political actors in conflict zones and diverts the EU impact and agenda from what the EU actually aspires to achieve.

The findings have also demonstrated that the procedural and participatory qualities of the EU policy setting and implementation are important factors inducing local support. However, the scope of the EU's decision-making power closely affects legitimisation through participatory pathway. When the EU has formal or informal top-down power above the locally elected representatives, as exemplified in the Kosovo case, the accountability and transparency of EU's executive powers might become subject to substantial local criticism from non-governmental groups and give rise to an 'anti-hegemonic' and 'anti-imperialist' discourse. When there is a pragmatic engagement by local authorities like in North Cyprus, limited access to deliberation and lack of public visibility is likely to be tolerated for pragmatic reasons. Nevertheless, the current level of pragmatism on both the EU and local politicians' side considerably limits the involvement of the EU on the ground to meaningfully generate decisive solutions. Moreover, the sustainability of pragmatic cooperation and specific support for the EU is questionable in the long-term.

The empirical analysis reveals interesting results in terms of legitimisation through performance. The findings have demonstrated that the locals are concerned with "more than the relentless generation and satisfaction of basic needs" (Mitchell 2010: 649). Performance is necessary for the EU to remain relevant and credible on the ground in the long term. In this sense, the locals are interested in the benefits the EU brings in line with the local expectations instead of evaluating the EU against the optimal outcomes. However, locals are not only concerned with short-term benefits. There are conditions under which limited outcomes might turn into considerable local scepticism. When the locals perceive the EU as an incapable and reluctant actor to address local expectations

genuinely (as in Kosovo in relation to fight against corruption and in North Cyprus in relation to lifting isolations and ensuring citizenship rights for Turkish Cypriots), it is likely that substantial criticism against the EU's engagement in conflict resolution will follow. This widespread local criticism is also likely to give rise to or empower anti-imperialistic local political movements or Eurosceptic discourses.

Chapter Eight has highlighted that looking at the two cases we see a fragmented local audience in terms of perceptions of conflict resolution and ethnicity, ideology, and strategies and sources available to affect the externally-promoted conflict resolution process. The normative identity that the EU proclaims for itself is not simply accepted or rejected, but is subject to intense debates and controversies among various local stakeholders and between the EU and different local groups. Local actors possess power to affect the EU's authority as a conflict resolution actor through their ideas, priorities, beliefs, attitudes towards the conflict and their visions of possible and acceptable conflict resolution. For this reason, the EU faces a constant pressure to change and adapt its policy make-up and normative justifications vis-à-vis the local actors in a particular conflict case.

Chapter Eight has also suggested that the process of legitimation of EU conflict resolution has different implications for the EU's authority as a conflict resolution actor. The EU is not provided with a monopoly to demand compliance from the local constituency similar to a government. The EU's authority within the local context can be conceptualised as 'relational authority'. The EU should act through responsive and responsible ways in line with the locally acceptable priorities and instruments. Therefore, in order to possess a legitimated authority in conflict resolution, an actor must have a certain agreement with the locals in terms of overarching goals and purposes, procedures and efficiency of outcomes. By looking at the local template, we can understand the local reasoning behind 'ascription of purpose and meaning' (Jachtenfuchs, Diez et al. 1998: 413) to the EU as a conflict resolver, how local support or disapproval impact the conflict resolution process the EU desires to lead, and finally, how local resistance can be understood and approached to address the major challenges and handicaps of the EU's current conflict resolution practices.

The thesis also contributes to the post-liberal approaches in the conflict resolution literature through an empirical study of EU conflict resolution. There is a widening debate by the students of the post-liberal conflict resolution approach regarding the urgency of generating contextually relevant peace. This approach calls for a focus on local needs and rights for a durable or everyday peace instead of incentives, conditionality and dependency

(Richmond 2009). Yet, compared to the liberal peacebuilding literature³⁷³, the post-liberal approach lacks widespread empirical foundation, albeit an increasing number of empirical research recently. This has led to a counter-criticism from the liberal school that post-liberal critiques engage in “sweeping rejections of liberal peacebuilding”, but still rely on the same principles and norms. Paris argues that the post-liberal school is hyper-critical at theoretical level, but it “actually espous[es] variations within, rather than alternatives to, liberal peacebuilding” (Paris 2010: 339).

In order to ensure that the critical school is well-founded and generalizable, the assumptions and probing questions that it postulates should be empirically supported. This thesis contributes to this literature through an empirical study of the EU as an actor of conflict resolution. In relation to EU conflict resolution, Richmond et.al (2011: 450) argue that “a post-liberal form of peacebuilding, from the perspective of the EU peacebuilding framework would attain more contextual legitimacy on the ground, something the EU appears to have been associated with and aspired to since its earliest conceptualization of peace. This would be combined, however, with its own normative and institutional standards, approaches to security, democracy, rule of law, civil society, development and human rights”.

However, this argument has not been empirically studied. The analytical perspective of legitimation and the systematic study of the cases of Kosovo and Cyprus have offered a bottom-up and local needs based study the exploratory criticisms raised by the post-liberal approach. In this sense, this thesis critically evaluates the liberal peacebuilding tendencies dominating the EU framework and policies from the local agency’s point of view without ritualistically rejecting what is offered by the EU (or by the liberal approach). As Chapter Eight discussed, the study of ‘the local’ does not “romanticise the local and its capacity for conflict resolution or its dysfunctionality”, but it rather enables us “to engage in ‘unscripted conversations’” (Richmond 2010: 32) about the implications of local agency on the conflict resolution process and how the EU could possibly alter its problematic relationship with the direct recipients of its framework and policies. By making use of local actor perceptions as variables that include strategic and ideological (read strongly subjective) elements, the thesis has sought to explain how

³⁷³ In the liberal peacebuilding approach, external actor incentives and policies of institution-building, rule of law and democracy promotion are prioritised, and the conflict resolution agenda is determined through a consensual agreement between the external actors and local elites.

perceptions of locals shape their actions and relationship with the EU and the reasons for adaptation, rejection or resistance of EU conflict resolution agenda.

Finally, the study of the EU's legitimacy has also brought a new dimension to the existing studies on others' perceptions of the EU. The perceptions of 'external world' as feedback on the identity and effectiveness of EU as a foreign policy actor have recently gained scholarly reputation. Many authors have noted significant differences between self and outside perceptions of the EU (Lucarelli 2007b; Lucarelli and Fioramonti 2009). However, perceptions of 'the others' alone might only represent deliberate discursive constructions; in this sense, they are not more valid than the EU's self-perceptions. The framework of legitimation has allowed a set of questions to be asked about perceptions of local actors. This thesis has showed that only if they are used as indicators of *awareness*, *acceptance* or *challenge* towards the EU; then they become more valuable analytical tools. Therefore, we should go beyond reporting the differences between the self-perceptions and local perceptions of the EU. In this sense, the thesis has offered a more refined look into local perceptions as an explanatory variable in the EU conflict resolution process.

9.2 Limitations and Future Research

Despite the conceptual and empirical contributions in this thesis, this study should be read with its theoretical and methodological constraints. First, the literature demonstrates little consensus on the theoretical approach towards legitimation beyond state and there is no tested comprehensive framework of legitimation. The concept of legitimacy and mechanisms of legitimation as a source of societal power are still at an incipient stage compared to theorisations for the democratic nation-state. Although private and public non-state decision-makers assume state-like responsibilities without being subject to traditional representative democracy, the meaning and sources of legitimation are far from being self-evident; and more importantly, it is defined in relation to certain contexts and decision-making systems. As a result, the analytical framework is comprehensive of different approaches in the literature; but at the same time, it is limited to a particular actor and a particular policy area. Therefore, its applicability beyond EU conflict resolution might be limited.

Second, the thesis has singled out local groups for a focused analysis of their impact on EU conflict resolution. However, neither the EU nor local groups are isolated from other actors in conflict resolution such as external parties with complementary or

contradicting agendas, international organisations, NGOs, donors, and so on. In practice, all external actors pursue their agenda “in parallel and, occasionally, in direct competition for resources and political attention” (Schneckener 2011: loc. 4831). Schneckener (2011: loc. 5055) argues that there are at least five different levels of dynamic interaction in long-term conflict resolution practices which affect the strategies and activities of both external parties and local groups: first, among local actors; second, between the parties to the previous violent conflict (Kosovo and Serbia, North Cyprus and RoC); third, between local and external actors; four, among different external actors, such as donors, NGOs, states, international organisations; and finally, between national capitals and headquarters of international organisations that invest in conflict resolution. Therefore, this complex web of interactions, which Schneckener describes as an example of multi-level governance, affects strategies, actions, agendas and ideas of all parties involved in conflict resolution.

The analytical framework in this thesis does not do full justice to the role of other actors involved in the process, since the focus is the first and third levels of interaction identified by Schneckener. The impact of Serbia and the RoC and other conflict resolvers are only indirectly mentioned throughout the empirical chapters. For instance, the strategic use of membership privileges by the RoC, Serbia’s own EU membership desires as well as the role of the US in Kosovo’s independence declaration and Turkey’s bumpy relations with the EU closely affects the relations between the local groups in Kosovo and North Cyprus and the EU. A closer look into all levels of conflict resolution would certainly enhance our understanding of local resistance or support for the EU.

Third, the analytical framework does not differentiate between local groups which display a genuine and reasoned resistance and engage in localisation and local factions, individuals or groups which play the so-called ‘spoiler’ role and reject any third party involvement in resolving the conflict. Especially in conflict societies, local groups are polarised between ethnic or political groups with conflicting interpretations of history; and there are always groups which perceive the EU as disproportionately favouring ‘the other side’ (Talentino 2007). Such groups would always remain unenthusiastic to compromise and cooperate with any actor trying to bring a mutually agreed solution. Therefore, they are likely to resist or undermine the EU’s impact on the ground. Should all local groups be considered as subjects granting support to the EU? Put differently, does the EU really need continuous support from all local groups to be able to engage in conflict resolution?

The thesis has chosen not to categorise local groups as spoilers, self-interested compliers and genuinely constructive local groups; and thereby, considered all local

groups with a voice that would potentially grant support for the EU framework or policies. The reason is two-fold: first, to avoid any bias towards local actors, and second, to be able to analyse the local template in its entirety, i.e. culture, conditions and informal perceptions of the EU and interpretations of conflict history. Still, some groups might be more significant for the EU to maintain certain level of authority and credibility. For instance, in relation to international organisations, Symons (2011: 2583) argues that there is a “variation in the degree of legitimacy sought by IOs within different subject social constituencies”. As a result, they can search for alternative social constituencies as sources of leverage to compensate the lack of support from one constituency (Symons 2011). Such a differentiation among local groups would be relevant in conflict societies and would help us further identify the local actors with a tendency to use resistance to improve shared normative ideas, outcomes, burden-sharing and participatory institutions.

Fourth, the analytical perspective on legitimation required an in depth analysis of legitimation through process-tracing of each case in order to get insight into the reasoning of local actors and to analyse rich-data sources. However, the methodological choice has considerably limited the number of case studies in this thesis. The Kosovo and North Cyprus cases do not represent the entirety of the EU conflict resolution engagements in the world. The two cases are special in many aspects. First, the EU’s stance towards self-determination claims is quite unique for both cases. Kosovo’s independence has been accepted as an unparalleled case of secessionism. The international stance towards secessionism has empowered the local independence goal which is a unifying ideology for all local groups and facilitated resistance to some EU policies (e.g. autonomy for minorities). North Cyprus also has a unique status as neither a member state nor an external territory, but still as an unrecognised state with working *de facto* institutions. The local normative and moral resistance to the EU’s authority is closely affected by this ambiguous status of North Cyprus. Second, the two cases also demonstrate that the prospect of integration can be both a blessing and a curse for the EU’s legitimation. Namely, it can initiate mass support and high expectations or disillusionment and moral challenge, at the same time. Given the limited scope of generalisations from these two cases, future research on legitimation and EU conflict resolution should address other conflict cases. In order to allow improved generalisability of the findings and further test the analytical framework, conflict cases where the EU excludes near or future prospect of membership and where the Union does not deal with strong self-determination claims can be studied.

This thesis opens up several new avenues for further research by looking into diverse local agency and its power to impact externally-driven conflict resolution processes. The analytical perspective offered by the concept of legitimation enables us to ascertain the reasons for local support or lack thereof for externally-driven conflict resolution agendas, frameworks and actors. Assessing legitimation requires going beyond reporting the locals' perceptions and offers an understanding of how the ideas and beliefs that substantiate local support and cooperation can be "maintained and reproduced", "why consent is continually renewed" (Beetham 1991: 101), and how local agency affects external conflict resolvers' authority, ergo impact. If legitimation offers a mechanism of reform and change for better governance at the global level as the students of global governance suggest (Brassett and Tsingou 2011), assessing EU's legitimation in the conflict resolution field would also provide insight about to what extent third parties of conflict resolution are prepared to confront the real challenges and able to reform or tailor their conflict resolution practices in line with the demands from local addressees. The analytical perspective of legitimation enables us to reproduce and closely analyse the existing power relationship between the EU and local groups. In this sense, questioning legitimation facilitates our understanding of the EU characteristics as a conflict resolution actor as well as the sustainability of its authority in conflict settings.

Appendix

A.1 Details of the Interviews and Interviewees

The interviews within the research design of this study are designed as semi-structured. A standardised list of issues were prepared for each interview, but the order and format of questions were flexible in order to allow further probing the views of the interviewees (Gray 2004: 216-7) and ‘give latitude to articulate fully their responses’ (Aberbach and Rockman 2002: 674) during the interviews.

Interviews were conducted for three purposes: ‘to corroborate what has been established from other sources’, ‘to make inferences about a larger population’s characteristics and ‘to reconstruct an event or set of events’ (Tansey 2007: 766). The aim is to get factual information from different points of view (Goldstein 2002: 669).

Semi-structured interviews include political actors, party members, leading members of non-governmental bodies, various academics, journalists and representatives of the EU on the ground. Details of the interviewees are provided below:

Kosovo

Jeton Zulfaj, NGO *Çelnaja*, interviewed in Pristina on 10 May 2011.

The Executive Director of non-governmental, non-profit organisation *Çelnaja*.

Agron Demi, *Instituti GAP*, interviewed in Pristina on 11 May 2011.

The Executive Director at GAP. He previously worked as a policy analyst and as the Director of the GAP’s Political Development Department. He also worked for the National Democratic Institute (NDI), and as a Legislative Assistant for both the Parliamentary Committee on Health, Labour and Social Welfare and the Parliamentary Committee on Budget and Finance at the Assembly of Kosovo.

Jeton Mehmeti, *Instituti GAP*, interviewed in Pristina on 11 May 2011.

Policy Analyst at GAP.

Adem Gashi, *KIPRED*, interviewed in Pristina on 12 May 2011.

Researcher at KIPRED. Previously, he worked as a Project Officer at the Business Support Centre Kosovo. Currently he is the executive director of *Insituti i Kosoves per Drejtesi* (Kosovo Law Institute)

Muhamet Hajrullahu, *BIRN*, (*Balkan Investigative Reporting Network*), interviewed in Pristina on 13 May 2011.

Journalist at BIRN. Since 1999, Muhamet Hajrullahu has worked for a number of media organisations, including Kohavision, the national TV station, where he was a journalist and editor. He is a member of the Institute for War and Peace Reporting (IWPR). He is within the team of *Jeta në Kosovë* (Life in Kosovo) - a weekly current affairs program produced by BIRN Kosovo. 'Life in Kosovo' is the most popular TV program on the current issues in Kosovo.

Fatmir Curri, *Kosovar Civil Society Foundation*, interviewed in Pristina on 13 May 2011. Project coordinator and one of the key experts at the Kosovar Civil Society Foundation. Mr Curri is the co-author of policy papers on Kosovo's European integration. He is a lecturer at the Kosovo School for European Integration. Fatmir Curri also lectures and trains CSOs in Kosovo on the EU enlargement policy and the Stabilization and Association Process. Fatmir Curri served previously as a senior officer for the Stabilization and Association Process Tracking Mechanism at the Agency for European Integration. He also worked within the OSCE mission in Kosovo and occupied various positions at international NGOs working in Pristina.

Saša Ilić, *Center for Peace and Tolerance (CPT)* and *Kosovo Policy Action Network (KPAN)*, interviewed in Gracanica on 19 May 2011.

Executive Director of CPT and President of KPAN. KPAN is an alliance of active civil society organisations mostly acting as an umbrella organisation for civil society organisations representing minority groups. Ilić has started to work as an activist for Kosovo Serbs rights in the immediate aftermath of NATO action in 1999. He was involved in small group of volunteers helping Kosovo Serbs find shelter and food and escape from revenge attacks in the early years of the international administration in Kosovo.

Albin Kurti, *Lëvizja Vetëvendosje!*, interviewed in Pristina on 20 May 2011.

Founder and Head of *Vetëvendosje*. Currently he is a Member of Kosovo Assembly since 2010 elections. He was detained and imprisoned during the Milosevic era when he was a university student. He was also arrested by the UNMIK Police in 2007.

Federica Domanini, *European Commission Liaison Office (ECLO)*, 18 May 2011.

ECLO official for policy, economy and European Integration.

International Civilian Office Political Affairs and Decentralisation Units, interviewed in Pristina on 23 May 2011.

Besa Luci, *Kosovo 2.0*, interviewed in Pristina on 24 May 2011.

Chief Editor of *Kosovo 2.0*

Artan Çollaku, *Ministry of European Integration*, interviewed in Pristina on 26 May 2011
Senior European Affairs Officer in the Rule of Law/JFS Task Manager Unit at the Ministry of European Integration at the Ministry of European Integration. He also worked as the Project Manager at the European Centre for Minority Issues Kosovo, as a Senior European Affairs Officer at the Agency for European Integration, the Office of the Prime Minister. He worked in UNMIK and the OSCE Kosovo mission.

Anonymous EULEX Officials, interviewed in Pristina on 27 May 2011.

North Cyprus

Bülent Kanol, *Management Centre*, interviewed in Lefkoşa on 2 February 2012.

The Executive Director of the Management Centre. He also works as the President of Cyprus NGO Network. Management Centre is a non-profit organisation based in Lefkoşa aiming to contribute to the strengthening of civil society. The Centre is engaged in advocacy and reconciliation processes.

Ahmet Sözen, the *Eastern Mediterranean University*, the Department of Political Science and International Relations, interviewed in the UN Buffer Zone on 2 February 2012.

The Director of *Cyprus Policy Centre*. The Centre aims at contributing to democratisation of the TRNC and mutually agreed solution of the conflict. Sözen also took part in the bi-communal technical committees of the CTP government during the UN talks after 2008. He is closely involved in bi-communal projects, civil society activities on both sides of the island and co-authored many academic articles in peer-reviewed journals with Greek Cypriot scholars.

Erol Kaymak, the *Eastern Mediterranean University*, Department of Political Science and International Relations, interviewed in Mağusa on 9 February 2012.

Kaymak has been researching the Cyprus dispute as a case study of Europeanisation processes. Kaymak participated at the technical level negotiations of the Annan Plan for a comprehensive settlement to the Cyprus problem. He is a founding member of the Cyprus Academic Forum (CAF), which is actively working to enhance dialogue among the academics on both sides of the island.

Kemal Baykallı, *Turkish Cypriot Chamber of Commerce (KTTO)*, interviewed in Lefkoşa on 6 February 2012.

Deputy Secretary General of KTTO. He is also responsible for KTTO's external relations.

Anonymous, *Commission Task force for Turkish Cypriots*, interviewed on 10 February 2012.

Armağan Candan, the Republican Turkish Party, *CTP*, interviewed in Lefkoşa on 20 February 2011.

Member of the External Relations Committee of the CTP. He is involved in the CTP's representation in various forums in the EU and closely involved in inter-parliamentary group meetings with the Member State Parliaments. Among his liaisons are meetings with the Socialist Party in France and the Labour Party in the UK.

Ertuğrul Hasipoğlu, the National Unity Party, *UBP*, interviewed in Lefkoşa on 7 February 2012.

The current Deputy Chair of UBP and the former Foreign Minister of TRNC.

The Communal Liberation Party, *TDP*, interviewed in Lefkoşa on 12 February 2012

Erhan Elçin, *TRNC EU Coordination Centre*, interviewed in Lefkoşa on 24 February 2012.

The head of EU Coordination Centre of TRNC. The European Union Coordination Centre, established in June 2003 and primarily undertakes the responsibility for coordinating, organizing and monitoring all the contacts (with both TAIEX (Technical Assistance and Information Exchange) under the European Commission Directorate General for Enlargement

Trade Union of Teachers, KTÖS, interviewed in Nicosia on 17 February 2012.

Interviews at Home for Cooperation, interviewed in UN Buffer Zone on 14-16-17 February 2012.

A.2 Newspaper Data

Newspaper data consist of news reporting, op-eds, readers' columns from local newspapers.

Kosovo

The majority of the data from Kosovo newspaper are extracted from the UNMIK Media Monitoring Unit. UNMIK provides English translations of all major newspapers' published and circulated in Kosovo. Highlighted news and commentary articles are translated into English by UNMIK staff on a daily basis. The media monitoring also covers mainstream Serbian media's focus on Kosovo related issues which provided an additional insight into cross-checking between Albanian and Serbian narrative and interpretation of 'stories'.

The author reached the complete UNMIK Media Monitoring archives in October 2011 through personal contact with UNMIK. The analysis of Kosovo newspapers focused on post-independence period when the EU has become the most responsible third party in Kosovo. Nevertheless, while constructing historical background or cross-checking the information in secondary sources, some issues of the newspapers between 1999 and 2008 were also consulted.

The newspapers selected for the analysis represent a wide spectrum of political affiliations. Nevertheless, in Kosovo, political pressure on media is widespread. The

government is the contractor and biggest advertiser which forces newspapers to apply self-censorship (OSCE 2010). The newspapers selected for analysis are *Epoka e Re*, *Express*, *Infopress*, *Koha Ditore*, *Kosova Sot* and *Zëri*.

Koha Ditore and *Kosova Sot* are the two mostly read newspapers (around 70% of readers). *Koha Ditore* and *Zëri* are the most content-rich dailies (the lowest volume of ads).

Infopress and *Epoka e Re* are close to the ideological line of the governing party PDK, and especially *Infopress* can be categorised as a tabloid paper.

Zëri follows a more oppositional line. It is owned by Blerim Shala, the vice president of opposition *Aleanca për Ardhmërinë e Kosovës* (AAK) and a previous member of Kosovo status negotiations. The AAK is the party of Ramush Haradinaj, a former KLA leader who resigned as Kosovo's Prime Minister in March 2005 for his trial by the International Criminal Tribunal for war crimes. It is the third mostly read newspaper, albeit far beyond *Kosovo Sot* and *Koha Ditore*.

Express is included because the daily is owned by renowned businessman Ymeri Ipko. The Ipko Company is second biggest mobile operator and also controls the biggest cable TV and internet network in Kosovo. The newspaper represents business groups' interests. The Ipko holds close links with the government.

North Cyprus

In North Cyprus, the national library of the TRNC offers the entire archive of dailies. However, the library does not have digital archive facilities which would allow researchers to conduct online searches. The library also does not have a microfilm archive. All issues are stored in hardcopy; each year is divided in 12 or 24 issues. Therefore, the newspaper archives had to be searched manually which required lots of time. The related news and commentaries were pictured with a digital camera which was a time-consuming task. As a result, the initial decision to scan all years between 1990 and 2011 had to be dropped. Only key years in terms of relations with the EU and developments in the UN peace process were selected: 1990 when the Greek Cypriot government applied for membership on behalf of the entire island, 1993 when the Commission welcomed the application, 1997-1999 when Luxembourg and Helsinki decisions lifted conditionality regarding a political

settlement between the sides as a pre-requisite for membership, 2002-2004 when the civil society and political opposition grew stronger in North Cyprus, when the RoC signed the Accession Agreement and when the referendum took place, and finally, 2008 when the accession peace negotiations restarted after four years break. The dailies were manually scanned and digital copies of various editorial pieces, news reporting, commentaries and readers' letters were stored for the analysis during the two field visits to North Cyprus in February and May 2012.

The issues of three major newspapers *Yenidüzen*, *Afrika* and *Volkan* were selected for archival research.

Yenidüzen is an explicitly pro-CTP newspaper, which has always been followed by the leftist groups of the Turkish Cypriot society³⁷⁴.

Afrika- former *Avrupa*- expresses critical views of both nationalist groups and Turkey. Throughout the early 2000s, the editor-in-chief faced accusations of insulting the state and the President and he was briefly detained. The property of the newspaper was seized and the newspaper staff was subject the threats from nationalist groups. *Afrika* is not only critical of nationalist political leadership. It can also express critical views on the international actors and mostly the EU.

Finally, *Volkan* represents an ultra-right nationalist view and usually favours further integration with Turkey and/or independence.

Two more newspapers are also analysed: *Kıbrıs* claims to be free from affiliation with any political party and have the widest circulation and highest number of sales in North Cyprus. *Halkın Sesi* is the oldest daily circulated in entire North Cyprus. It was established during the colonial period.

³⁷⁴ It worth noting how different left and right axis is formed in domestic politics of the TRNC compared to western democracies. Traditionally, leftist politicians and parties are pro-solution supporting mutual reconciliation and usually played a marginal role until the 2000s, while right parties are considered pro-independence forces which were traditionally supported by Turkey.

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